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F.No.6/3/2019-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001

Dated 19th February, 2020

NOTIFICATION

FINAL FINDING

Subject: Anti-dumping investigation concerning imports of "Chlorinated Polyvinyl Chloride (CPVC) Resin- whether or not further processed into compound", originating in or exported from China PR and Korea RP.

A. BACKGROUND OF THE CASE

Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as “**the Act**”) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as “**the Rules**”) thereof.

1. M/s DCW Limited and M/s Kem One Chemplast Pvt. Ltd. (hereinafter also referred to as the “**Applicants**”) filed an application before the Designated Authority(hereinafter referred to as the Authority) in accordance with the Customs Tariff Act, 1975 and Anti-Dumping Rules, for initiation of anti- dumping investigation concerning imports of “Chlorinated Polyvinyl Chloride (CPVC) Resin - whether or not further processed into compound (hereinafter also referred to as the “**subject goods**” or “**product under consideration**”) from China PR and Korea RP (hereinafter also referred to as the “**subject countries**”).
2. The Authority, on the basis of sufficient evidence submitted by the Applicants, issued a Notification No. 6/3/2019-DGTR dated 28th March, 2019, published in the Gazette of India, initiating the subject investigation in accordance with Rule 5 of the AD Rules to determine existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from subject countries and to recommend an amount of antidumping duty, which, if levied, would be adequate to remove the alleged injury to the domestic industry.
3. The Authority having regard to the Act and the Rules, considered it appropriate to recommend interim duties and issued preliminary finding vide Notification No. 6/3/2019-DGTR dated 12th July 2019, recommending imposition of provisional anti-dumping duties on the imports of the subject goods, originating in or exported from China PR and Korea RP. Accordingly, the Central Government vide Notification No.33/2019-Customs dated 26th August, 2019 imposed provisional anti-dumping duties on imports of the subject

goods, originating in or exported from the China PR and Korea RP which are valid for 6 months.

B. PROCEDURE

4. The procedure described herein below has been followed by the Authority with regard to the subject investigation:
 - i. The Authority notified the Embassies of the subject countries in India about the receipt of the anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra and bilateral commitments.
 - ii. The Authority issued a notification dated 28th March, 2019 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of subject goods.
 - iii. The Embassies of China and Korea in India were informed about the initiation of the investigation in accordance with Rule 6(2) of the Rules with a request to advise the exporters/producers from China PR and Korea RP to respond to the questionnaire within prescribed time limit.
 - iv. Copy of the non-confidential version of the application filed by the Applicants was made available to the known producers / exporters of the subject countries and the embassies of the subject countries in accordance with Rule 6(2) & 6(3) of the Anti-Dumping Rules.
 - v. The Authority forwarded a copy of the public notice initiating anti-dumping investigation to the following known producers / exporters in the subject countries and provided them an opportunity to file response to questionnaire in the form and manner prescribed and make their views known in writing within forty days in accordance with the Rules 6(4) of the Rules:
 1. Shandong Gaoxin Chemicals Co.Ltd.,China PR
 2. Hangzhou Electrochemical New Material Co. Ltd.
 3. Shandong Yada New Material Co Ltd
 4. Novista, China
 5. Shandong Xuye New Materials Co. Ltd., China PR
 6. Sundow Polymers Co ltd, China
 7. Shandong Xiangsheng New Materials Technology Co., Ltd., China PR
 8. Hanwha Chemical Corporation, Korea.
 - vi. In response to the notification, following exporters/producers responded by filing exporter's questionnaire response-
 1. Shandong Gaoxin Chemical Co.Ltd, China
 2. Shandong Pujie Rubber and Plastic Co. Ltd., China PR
 3. Hangzhou Electrochemical New Material Co. Ltd
 4. Weifang Sundow Chemicals Co. Ltd, China PR
 5. Shandong Xuye New Material Co Ltd, China
 6. Shandong Xiangsheng New Materials Technology Co., Ltd, China
 7. Hanwha Chemical Corporation, Korea (HCC)
 8. Hanwha Corporation, Korea RP (HC)

vii. The Authority sent Questionnaires to the following known importers / users of subject goods in India calling for necessary information in accordance with Rule 6(2) of the Rules.

1. Ala Chemicals Limited
2. Apollo Pipes Ltd
3. Ajay Industrial Corporation Limited
4. Ajay Polymers
5. Bothara Agro Equipment Pvt Ltd
6. Desana Poly Plastic Industries
7. Lubrizol Advanced Materials India Pvt.Ltd.
8. Basil Prompt Vinyl Private Limited
9. Flowkem Poly Plast Private Limited.
10. Kankai Pipes & Fittings Pvt. Ltd.
11. Hil Limited
12. HP International
13. Karan Polymers Pvt Ltd
14. Kelvin Plastic Pvt Ltd
15. Kisan Mouldings Limited
16. Krishi Polymers Pvt.Ltd,
17. Neoseal Adhesive Pvt. Ltd.
18. Pidilite Industries Limited
19. Precision Plastic Industries Pvt. Ltd.
20. Param Polymers Private Limited
21. Prince Pipes & Fittings Pvt Ltd
22. Prince Swr Systems Pvt. Ltd.
23. Pushp Global Company
24. R C Plasto Tanks & Pipes Pvt. ltd.,
25. Reva Poly Plast
26. Sagar Polytechnik Ltd
27. Spectra Pipes Pvt Ltd
28. Star Industries
29. Star Pvc Pipes and Fittings Pvt Ltd
30. Subray Catal Chem Pvt.Ltd.,
31. Sudhakar Irrigation Systems Private Limited
32. Sumo Polyplast Pvt. Ltd.
33. The Supreme Industries Limited
34. Surya Roshni Limited
35. Vectus Industries Limited
36. Waterflo Piping System
37. Watertec (India) P Ltd
38. Abk Industries
39. Ace Poly Plast Pvt Ltd.
40. Champion Commercial Co.Ltd.
41. Gourishanker Polymers
42. H Saleix & Company
43. Mas Additives Pvt. Ltd.
44. Mayur Dyes & Chemical Corporation
45. Meet Marketing (India) Pvt Ltd.
46. Navyug Chemicals Pvt. Ltd.
47. Osho Polymers
48. Overseas Polymers Pvt Ltd

49. Polmann India Ltd.
50. Prayag Polymers (P) Ltd.
51. Prince Marketing
52. Sai Exim
53. Salasar Impex Pvt. Ltd-
54. Shreeji Impex
55. Sushila Parmar International Pvt. Ltd.
56. Synergy Industriez
57. Astral Polytechnik Ltd

viii. In response to the above, following importers/users filed a response and made submissions:

1. Sushila Parmar International Private Limited
2. HIL Limited
3. Vectus Industries Limited
4. Prince Pipes and Fittings Ltd.
5. Basil Prompt Vinyl Private Limited
6. Gourishanker Polymers

ix. Authority also sent copies of initiation notification to the following associations and sought their comments:

1. All India Plastic Industries Association
2. Organization of Paper Processor of India (OPPI)
3. Maharashtra PVC Pipe Manufacturers Association.
4. All India Plastic Manufacturers Association
5. Andhra Pradesh Plastics Manufacturers Association
6. TN PVC Manufacturers Association

x. None of the above associations responded to the initiation notification. However, a letter was received from Alkali Manufacturers Association and Chemical and Petrochemical Manufacturers Association (CPMA) with a request for an urgent help for safeguarding the investments already made by the Indian producers and for reinstating the industry's' confidence.

xi. The following interested parties filed submissions responding to the initiation notification-

1. HP International
2. Precision Plastic Industry Private Limited
3. Mas Additives Private Limited
4. Astral Poly Technik Ltd.
5. Jiangsu Lee & Man Chemical Limited
6. China Chlor-Alkali Industry Association
7. Canadian Speciality Vinyl

xii. Exporters, foreign producers and other interested parties who have not responded to the Authority, or have not supplied information relevant to this investigation, have been treated as non-cooperating interested parties.

xiii. Investigation was carried out for the period starting from 1st April 2017 to 30th September 2018 (18 months) (POI). However, injury examination was conducted for a period from 2015-16, 2016-17, 2017-18 and the period of investigation. The

period of investigation has been divided into quarters for the purpose of injury analysis in view of shorter length of data of domestic industry.

- xiv. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and Directorate General of Systems & Data Management (DG Systems) to provide details of imports of subject goods for the past three years and the period of investigation.
- xv. The Applicants had submitted the application alleging dumping of the subject goods from China PR and Korea RP relying upon the transaction-wise import data sourced from the DGCI&S. The Authority had relied upon the data provided by the Applicants while initiating the present investigation. Post initiation, the Authority also obtained transaction-wise import data from the DGCI&S and DG System and issued the preliminary finding while relying upon the DG System data in view of higher volume reported in DG Systems as compared to DGCI&S. However, post issuance of preliminary finding, the interested parties contended that the volume of imports reported in application was materially lower than the volume of imports reported in the preliminary finding. On examination in detail, it was found that the DG Systems has reported data containing three kinds of imports i.e. based on bill of entry cleared for home consumption, ex-bond bill of entry and bill of entry for warehousing. It is noted that imports reported through bills of entry filed for warehousing and bills of entry filed for home consumption only ought to have been considered to avoid double counting. It is further noted that DGCI&S reports data only on the basis of bills of entry for home consumption and bill of entry for warehousing. In view of this, the Authority has now relied upon DGCI&S transaction-wise data for the purpose of present final finding. The Authority however notes that had DGCI&S data been considered in the preliminary finding, only the volume of imports would have been lower. However, the resultant decrease in volume of imports would not have impacted the trend, which continues to remain the same i.e. imports of the product under consideration have increased from subject countries over the injury period. Further, it is noted that the import prices reported in the DGCI&S data and the data considered by the Authority in the preliminary finding are almost the same.
- xvi. On-the-spot verification of the information / data provided by the applicant domestic industry, to the extent deemed necessary, was carried out. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of the present investigation.
- xvii. Desk verification was carried out for the data filed by the following producers/ exporters from China PR:
 - 1. Shandong Gaoxin Chemical Co. Ltd, China PR
 - 2. Shandong Pujie Rubber and Plastic Co. Ltd., China PR
 - 3. Weifang Sundow Chemicals Co. Ltd, China PR
 - 4. Shandong Xuye New Materials Co. Ltd, China PR
 - 5. Shandong Xiangsheng New Materials Technology Co., Ltd, China PR
- xviii. Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry. The non-injurious price (NIP) has been determined by the Authority in terms of the principles laid down under Annexure – III to the Rules.

- xix. In accordance with Rule 6(6) of the Anti-Dumping Rules, the Authority provided opportunity to the interested parties to present their views orally in a public hearing held on 19th August 2019. Further, a 2nd oral hearing was held on 3rd December 2019 in view of change in the Designated Authority, in the light of the decision of the Hon'ble Supreme Court in the matter of Automotive Tyres Manufacturer Association vs Designated Authority. The parties, which presented their views in the oral hearing, were provided an opportunity to file written submissions of the views expressed orally, followed by submission of rejoinders.
- xx. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
- xi. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this final finding.
- xxii. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xxiii. Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has recorded the finding on the basis of facts available.
- xxiv. A Disclosure Statement containing the essential facts in this investigation which forms the basis of the present Final Finding was issued to the interested parties on 29.01.2020. The post Disclosure Statement submissions received from the domestic industry and other interested parties have been considered, to the extent found relevant, in this Final Finding Notification.
- xxv. *** represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules. Information in () bracket indicates negative number/range.
- xxvi. The average exchange rate of 1 US\$ = Rs 66.61 prevailing during the period of investigation has been adopted by the Authority for the present investigation.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

- 5. The product under consideration for the purpose of present investigation is “Chlorinated Polyvinyl Chloride (CPVC) - whether or not further processed into compound”.
- C.1. **Submissions made by the domestic industry**
- 6. Following submissions have been made by the domestic industry with regard to product under consideration:
 - i. CPVC resin and compound are one article and cannot be seen in isolation as two distinct articles.

- ii. The production process employed for conversion of CPVC resin into compound is a mere incremental process as: -
 - a. Compounding does not require highly skilled labour.
 - b. Compounding is neither high-tech process nor highly skilled manpower process.
 - c. Compounding does not require lot of manual work.
 - d. Compounding investment is not significant.
 - e. Compounding being done by a party which does not even possess technology and the same is provided by resin producer.
 - f. Compounding has very low value addition.
- iii. For value addition, the value of additional/ other raw materials added is entirely immaterial.
- iv. The difference in the prices of two product types due to addition of other raw materials does not mean significant value addition made by the compound producers.
- v. Resin is an intermediate product which eventually is to be converted into compound used for making pipes.
- vi. All the resin goes into making compound and is not consumed for any other applications.
- vii. Resin cannot be used as it is, and it has to be compulsorily further processed into compounds for making pipes and fittings.
- viii. Mere difference in the cost of production of different product types does not render them different products.
- ix. The Authority in past investigations such as Peroxosulphates, Caustic soda, Glass Fiber held multiple products inside the scope of PUC for an investigation.

C.2. Submissions made by the CPMA and AMAI

- 7. Following submissions have been made by Chemicals & Petrochemicals Manufacturers' Association (CPMA) and Alkali Manufacturers Association of India (AMAI) with regard to product under consideration:
 - i. CPVC Resins after minimal processing is being converted into compounds. Therefore, the Authority may include compound exported from a non-subject country, made from CPVC resin originating from the subject country, under the purview of the Anti-dumping duty. This is necessary to curb malpractices for avoidance of the anti-dumping duty, otherwise the levy would become totally ineffective.
 - ii. The conversion of compound from resin is not a substantial activity and even after compounding the product essentially remains the same. It does not involve significant investment or technology or technical expertise for making a compound. The resin must necessarily be converted to compound before it can be put to use. Therefore, this process does not transform the essential characteristics of the product, but merely makes it usable for the relevant application.

C.3. Submissions made by the other interested parties

- 8. Following submissions have been made by the the exporters, importers, users and other interested parties with regard to product under consideration:
 - i. The product under consideration must not contain two products, but only one product.
 - ii. Since the volume of CPVC compound is de-minimis, it warrants an exclusion.
 - iii. The Applicants are attempting to include product much beyond the actual imports from the subject countries.

- iv. CPVC resin and CPVC compound are distinct from each other and the assessment of the two products in one investigation can only be done at the risk of bypassing the assessments pertaining to DI standing, dumping and injury distinctly due to the following reasons-
 - a. Resin and compound are entering the Indian market from different sources and different manufacturers.
 - b. Owing to different prices of the resin and compound, the products must be assessed separately.
 - c. The cumulation of various products in one is not as per law.
 - d. Upstream and downstream products should not be combined.
 - e. Lubrizol, which is a single producer of the subject goods has not been considered. This has led to manufacturers of downstream producers getting excluded from the investigation simply because they are the importers of the intermediate product.
- v. CPVC compound manufacturing is in the next step of production from CPVC resin and altogether a different product due to the following reasons:-
 - a. The production process of CPVC compound is different from CPVC resin.
 - b. There is a variation in the cost of production between CPVC compound and CPVC resin by 30% to 100%.
 - c. Many exporter producers of CPVC resin outsource the production of CPVC compound due to it being a high technical process.
 - d. CPVC resin is not a substitute of CPVC compound as both are commercially traded and treated independently and separately.
 - e. There is a vast difference in the selling price of resin and compound to the extent of three times. The fact that the product is derived from an 'incremental process' does not make the two products to be alike to be one product.
 - f. The value of additional raw material required for the production of compound from resin needs to be considered for the purpose of value addition.
 - g. There is a significant difference in the prices of CPVC resin and compound which can be seen from the import prices and the NIP of the domestic industry.
 - h. There is a difference in the import price by around 57% to 70% and in non-injurious price by around 29% to 37% and still both the articles are being considered as one single product.
- vi. The domestic industry itself has admitted to the fact that production of CPVC compound from resin is an extremely incremental process.
- vii. As per CESTAT in the Andhra Petrochemicals Ltd v. Designated Authority, products which are not being imported into India from a certain country could not be deemed to be causing any injury to the industry therein, and therefore no duty could be imposed on such a category of products.
- viii. The Authority in past has carried out individual and separate investigations for intermediate and downstream products.
- ix. The Applicants claim of CPVC plant being a capital-intensive project are vague and baseless. Such claimed high costs were prevailing 7-8 years back and do not represent today's scenario.
- x. In the investigation for Front Axle Beam and Steering Knuckles meant for heavy and medium commercial vehicles from China PR, the Authority assessed standing of the domestic industry, the injury parameters as well as the import volumes for "Front Axle Beam" and "Steering Knuckles" separately.

C.4. Examination by the Authority

9. The submissions made by the domestic industry and other interested parties with regard to the product under consideration and like article related issues have been examined below.
10. The product under consideration for the purpose of present investigation is “Chlorinated Polyvinyl Chloride (CPVC) - whether or not further processed into compound”.
11. The product under consideration is classified under Chapter 39 of Customs Tariff Act. Import data received from DGCI&S and DG Systems shows that the product has been imported under 39042110, 39042190, 39042210, 39042290, 39041090 and 39049000. The Customs classification is indicative only and not binding on the scope of the present investigation.
12. The product is produced by chlorination via free radical chlorination reaction of Polyvinyl Chloride resin (Suspension PVC/ Mass PVC) and is significantly more flexible and can withstand higher temperatures than standard PVC. The chlorine content may vary from manufacturer to manufacturer. Various additives are introduced into the resin (CPVC compounding) in order to make the material processable. These additives may consist of stabilizers, lubricants, impact modifiers, processing aids, pigments.
13. CPVC is ideally suited for self-supporting constructions where temperatures go up to 90°C. CPVC exhibits fire-retardant properties. It is very difficult to ignite and tends to self-extinguish when not in direct contact of flame. It is used as a material for water piping systems in residential as well as commercial construction because it can withstand corrosive water at temperatures of 40°C to 50°C or higher. It is used in hot and cold-water plumbing distribution both at residential and commercial areas, fire protection, reclaimed water piping, chilled water piping, hydronic piping and distribution (radiators, fan coils, etc.) and is used in many industrial piping applications.
14. The product is significantly ductile, allowing greater flexure and crush resistance. Additionally, the mechanical strength of CPVC makes it a viable product to replace many types of metal pipe in conditions where metal's susceptibility to corrosion limits its use. CPVC is broadly classified into two grades, namely (a) Pipe grade and (b) Fitting grade on the basis of end use applications. Further, PUC can be produced through two processes, namely dry process and wet process. However, no significant difference in these forms of products on account of different processes or different grades has been reported by any party.
15. With regard to like article, Rule 2(d) of the Rules provides as under:-

"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;

16. The Authority has examined the argument made by interested parties that CPVC resin and compound are distinct products as both are produced in different stages of processing. Based on the submissions made by the Applicant and the other interested parties, the Authority notes that CPVC resin is an intermediate product which eventually is to be

converted into compound for making pipes and there is no other independent uses of CPVC resin. CPVC resin cannot be used as it is, and it has to be compulsorily processed into compound for making it usable, a fact that has not been disputed by the opposing interested parties. It is noted that difference in the cost of production and selling price is not the only criterion to treat one product different from the other. Compound is nothing but further processed form of CPVC resin to make it useable. It is also noted that compounding basically involves mixing of additives with resin without any substantial manufacturing activity. Therefore, the process to convert CPVC resin into compound is a mere incremental process and this process does not transform the essential characteristics of the product, but merely makes it usable. The very fact that the process involved in conversion of resin into compound does not lead to change in tariff code appears to suggest that the process is incremental in nature. Even if additives are to be considered in computation of value addition in the production phase between CPVC resin and compound, CPVC resin is the most expensive ingredient used to produce Compound. Besides, the end-use markets for

CPVC resin and compound, are essentially the same. CPVC resin and compound possess the same chemical structure and, CPVC resin imparts essential characteristic to compound. Most importantly, submissions on record show that a lot of compound manufacturers in India are importing CPVC resin and converting the same into compound. In view of this, exclusion of compound from purview of levy of anti-dumping duty is likely to lead to direct export of compound from subject countries to India, thereby nullifying the very purpose of entire exercise of imposition of anti-dumping duty. In view of the above, the Authority holds that the scope of product under consideration in the present investigation includes Chlorinated Polyvinyl Chloride (CPVC), both in resin and compound form, as one article.

17. There is no known difference between the subject goods exported from the subject countries and that producers by the Applicants. Chlorinated Polyvinyl Chloride (CPVC) - whether or not further processed into compound produced by the Indian industry and imported from the subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable and consumers can use them interchangeably. It is concluded that the goods produced by the Applicant are like articles to the product under consideration imported from the subject countries.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

D.1. Submissions made by the domestic industry

18. Following submissions have been made by the domestic industry with regard to scope of domestic industry and standing-
 - a. The Applicants have neither imported the subject goods nor are related to any of the exporter or importer.
 - b. At the time of filing of application, there was only one producer of the subject goods in India.
 - c. M/s. Kem One Chemplast Private Limited has sought imposition of anti-dumping duty as the dumping of the subject goods has withheld its investment after substantial work on the project.

D.2. Submissions of other interested parties

19. The other interested parties have submitted as under with regard to domestic industry and standing-

- a. The Applicants are not the only producer of the subject goods in India and therefore, the present application is woefully inadequate and insufficient;
- b. The industry is not nascent industry.
- c. A major producer of CPVC compound named Lubrizol India, has been ignored in the present investigation simply because of the combined investigation. The Authority has not given any reason for the same.
- d. M/s Kem One Chemplast Pvt. Ltd. cannot be considered eligible to be within the scope of the domestic industry unless it is engaged in the manufacture and production of the like article.
- e. In one of the previous investigations regarding Flax Yarn from China PR, the Authority had not examined the status of Raymond Luxury Cottons which was not producing the subject goods in the period of investigation.
- f. RIL has also established a plant for manufacturing the subject goods.
- g. Respondent requests the Authority to consider domestic industry as "unestablished" if it proceeds on the ground that the establishment of the domestic industry may be materially retarded due to the subject imports.
- h. Front Axle beam and Steering Knuckle investigations have been referred to by other interested parties for defining the standing.

D.3. Examination by the Authority

20. Rule 2(b) of the Anti-Dumping Rules defines domestic industry as under:

"(b) "domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term 'domestic industry' may be construed as referring to the rest of the producers".

21. The application had been filed by M/s DCW Limited and M/s Kem One Chemplast Pvt Ltd. The application was subsequently supported by M/s. Meghmani FineChem Ltd. Out of three entities, M/s DCW Ltd. is the only company engaged in production of CPVC resin and Compound in the period of investigation whereas, other two companies viz. M/s Kem One Chemplast Pvt Ltd and M/s. Meghmani FineChem Ltd have not yet commenced production. M/s. Meghmani FineChem Ltd is only at the conceptual stage of setting up of the project depending on the conditions of the market. However, they had expressed willingness to be part of the application. As for M/s Kem One Chemplast Pvt Ltd, they had finalized the project and had done lot of groundwork in setting up of the plant including technology transfer. It had submitted project reports. Therefore, the Authority considered M/s DCW Limited and M/s Kem One Chemplast Pvt Ltd as the domestic industry for the purpose of initiation of investigation and the preliminary finding.

22. The Authority notes that post issuance of preliminary finding, interested parties have contended that M/s Kem One Chemplast Pvt. Ltd. cannot be considered to be eligible within the scope of the domestic industry unless it is engaged in manufacturing and production of the like article. While it is noted that M/s Kem One have finalized the project and has done lot of ground work in setting up of the plant including technology transfer and also submitted its project report, it is also seen that the company has yet to take a number of steps before it commences its commercial production. The Authority, therefore, finds it appropriate to exclude M/s Kem One Chemplast Pvt. Ltd from the scope of domestic industry and only considers M/s DCW Ltd. as domestic industry.
23. There are few producers of CPVC compound who are buying CPVC resin either from DCW or importing the resin and processing the same to manufacture CPVC compound for making pipes. Companies who do not have manufacturing facilities for CPVC resin but are only compounders from purchased CPVC resin (indigenously and/or imported), including Lubrizol India, have not been considered as “domestic industry” within the meaning of Rule 2 (b) for the reasons that (a) the product under consideration in the present investigation is “Chlorinated Polyvinyl Chloride (CPVC) - whether or not further processed into compound. The subject good, thus, is CPVC resin or CPVC resin and compound. It is, thus, essential for the domestic producer(s) to be a manufacturer of CPVC resin, whether or not they are into the business of compounding the resin, in order to be eligible domestic industry and (b) the compounders sourcing CPVC resin domestically procure it only from DCW Ltd. on account of it being the sole producer of CPVC resin and, hence, inclusion of their production quantity would amount to double counting since production of DCW Ltd has already been taken into account.
24. M/s DCW Ltd. is not related to any importer or exporter of subject goods in the subject countries nor have they imported subject goods from subject countries. M/s DCW Ltd. is importing MPVC for manufacturing of CPVC, from countries other than subject countries. M/s DCW Limited, being the sole producer of the product under consideration, accounts for a major proportion of the total domestic production of the subject goods and constitutes domestic industry within the meaning of the Rule 2 (b) and satisfies the criteria of standing in terms of Rule 5 (3) of the Rules.

E. CONFIDENTIALITY

E.1. Submissions made by the domestic industry

25. The domestic industry submitted as under, with regard to confidentiality:

- a. Hanwha Chemical Corporation has a sales office in India but the details regarding it have not been disclosed in the non-confidential version of the EQR.
- b. In spite of the fact that the details of captive raw materials and utilities are available on the website of Hanwha Chemical Corporation, their names have been claimed as confidential in the NCV of the response.
- c. As per publicly available information, Hanwha Chemical Corporation undertakes significant research & development activities within the company, with group companies and with other entities.
- d. Hanwha Chemical Corporation produces PVC and chlorine captively and thus exporter is required to establish that the transfer price is reflective of fair market value. However, the reply has been claimed confidential by the producer.
- e. The Authority has provided detailed analysis of data claimed confidential, which lends reasonable understanding to other interested parties.

- f. Reference to the Reliance Industries vs Designated Authority [2006(202) ELT 23 (SC)] is misplaced as the decision talks about confidentiality claimed by the Authority from the party supplying the said data.
- g. The Applicant has provided all the information which it was obliged to provide on non-confidential basis.
- h. Because a number of producers are planning to set up capacities in India, therefore the project report is highly confidential and hence cannot be shared.

E.2. Submissions made by the other interested parties

26. The other interested parties argued, as under, with regard to confidentiality claims of the domestic industry:

- a. The information which has not been claimed confidential by the Applicant, cannot be claimed confidential by the Authority. The petitioner in the petition has provided indexed figures in respect of production, sales, capacity utilization, inventory and closing stock as noted above, however, the Authority has gone one step further by treating all such information as confidential in the preliminary finding. In other words, the Authority has exceeded its jurisdiction to assume information as confidential, which was not claimed to be confidential by the petitioner itself in the petition. This is in direct violation to the decision of Hon'ble Supreme Court of India in the case of Reliance Industries Ltd vs Designated Authority [2006(202) ELT 23 (SC)] as well as order of Larger Bench of Hon'ble Supreme Court in the case of Union of India vs Meghmani Organics Ltd [2016 (340) E.L.T. 449 (S.C.)], wherein the Hon'ble Court held that the AD Rules do not contemplate any right in Designated Authority to claim confidentiality and Authority does not have any power to assume confidentiality on its own.
- b. Adjustments made in the export prices cannot be claimed confidential in the non-confidential version of the response.
- c. The non-confidential version of the application does not allow a reasonable understanding of the domestic industry's' claim.
- d. The Applicant must be directed to provide the non-confidential copy of the project report and other claims made in respect of material retardation.
- e. The adjustments in the net export price cannot be claimed confidential in the non-confidential application.

E.3. Examination by the Authority

27. With regard to confidentiality of information, Rule 7 of the Anti-Dumping Rules provides as follows:

“Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule (2) of rule 12, sub-rule (4) of rule 15 and sub rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible

of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.”

28. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential versions of the evidences submitted by various interested parties in the form of public file.

F. MISCELLANEOUS

F.1. Submissions made by the domestic industry

29. The submissions made by the domestic industry are recorded below -

- Applicant has already stated the methodology used to arrive import data in the written submissions filed before the Authority.
- The Authority in past recommended anti-dumping duty in case of material retardation for a period of 5 years.
- The imports in India are coming at higher prices from the other subject countries and still the Indian industry has been seeing a growth in the consumption. This shows that the imposition of the duty will not be against the public interest.
- The Korean Government should not be concerned by the rise in prices of CPVC in the Indian market if the duties are imposed.
- There has been no instance of consumers being unable to buy the raw material or absorb the price increase.

F.2. Submissions made by other interested parties

30. The miscellaneous submissions made by the interested parties are recorded below:

- The Authority has no power, under Indian law, to recommend imposition of provisional measures to address a situation of material retardation to the establishment of the domestic industry.
- The Authority has failed to record any examination, in terms of Section 9B (l)(b)(iii) of the Customs Tariff Act, 1975, that a duty is necessary to prevent injury being caused during the investigation.
- Under the WTO anti-dumping agreement, provisional duties cannot be imposed in case of material retardation to the establishment of domestic industry.
- The Authority's assessment of the ground of "material retardation" is flawed.
- The Authority has failed to record or examine any of the claims and submissions put forth by the Respondents in their injury submissions dated 31st May 2019.
- The Authority's analysis of the Applicant's data is misguided and fails to consider the factors pointed out by the Respondents.

- g. The Authority's analysis of the Application is incomplete in certain parts and draws conclusions without an actual assessment.
- h. The Authority has not recorded submissions made by other interested parties in its preliminary finding. While the submissions of Applicant are recorded, no examination thereof has been done.
- i. The Authority has placed reliance on the import data from DG Systems rather than DGCI&S data for determining the preliminary finding. No justification has been provided by the Authority to consider the DG System's data as appropriate and DGCI&S data as incorrect.
- j. The Applicant should be directed to provide a copy of methodology that has been used to arrive at the import data considered.
- k. It will not be in public interest to impose anti-dumping duty on CPVC. The overall purpose of the domestic industry is to eliminate competition and enjoy monopoly. This will affect the performance of the downstream industry.
- l. Levy of anti-dumping duty on CPVC will create an unfair competitive environment and would harm the fundamental interests of their respective industries in the long term.
- m. The imposition of anti-dumping duty would lead to rise in local prices of CPVC or the benefit will get transferred to countries not attracting anti-dumping duty.
- n. The imposition of preliminary duty has led to rise in price of CPVC around 30-40%.
- o. The imposition of provisional anti-dumping duty has done more harm than good to the Indian CPVC market, without actually bringing any substantial benefit to Indian domestic industry.
- p. The Authority has followed a practice of recommending definitive anti-dumping duty for a lesser period (up to 2 or 3 years) in case of material retardation since duty recommendation for a period of 5 years may not be justified.
- q. Hanwha

F.3. Examination by the Authority

- 31. The submissions made by the domestic industry, exporters, importers, users and other interested parties with regard to various issues, considered relevant by the Authority, have been examined as under-
 - a. As regards the contention that the Authority does not have the power to recommend the provisional duty in case of material retardation, the Authority notes that none of the provision under the Rules states that the provisional duty cannot be imposed in case of material retardation. Recommendation of provisional duty by the Authority in the present investigation is as per the Rules.
 - b. As regards to the contention that the Authority has not recorded submissions made by other interested parties in its preliminary finding, the Authority notes that after issuance of the preliminary finding, the Authority has granted oral hearing and parties were advised to file their written submissions as well as rejoinders. The Authority also provided 2nd Oral hearing in view of the change of the Designated Authority followed by written submissions and rejoinder submissions All the relevant submissions have been recorded and examined in the finding.
 - c. As regards the contention that the Authority had not given reason for relying on the import data from DG Systems rather than DGCI&S data in the preliminary finding, it is clarified that since volume of imports reported in DG Systems data was higher as compared to the DGCI&S data, the Authority adopted the DG Systems data at the time of the preliminary finding with a view to account for entire import of the subject goods.

However, post issuance of preliminary finding, the interested parties contended that the volume of imports reported in application was materially lower than the volume of imports reported in the preliminary finding. On examination in detail, it was found that the DG Systems has reported data containing three kinds of imports i.e. based on bill of entry cleared for home consumption, ex-bond bill of entry and bill of entry for warehousing. It is noted that imports reported through bills of entry filed for warehousing and bills of entry filed for home consumption only ought to have been considered to avoid double counting. It is further noted that DGCI&S reports data only on the basis of bills of entry for home consumption and bill of entry for warehousing. In view of this, the Authority has now relied upon DGCI&S transaction-wise data for the purpose of present final finding. The Authority however notes that had DGCI&S data been considered in the preliminary finding, only the volume of imports would have been lower. However, the resultant decrease in volume of imports would not have impacted the trend, which continues to remain the same i.e. imports of the product under consideration have increased from subject countries over the injury period. Further, it is noted that the import prices reported in the DGCI&S data and the data considered by the Authority in the preliminary finding are almost the same.

- d. As regards the contention that the imposition of the duty on CPVC will not be in public interest, the Authority notes that the duty essentially aims to address unfair trade practice.
- e. As regards the contention that the imposition of the anti-dumping duty would lead to rise in local prices of CPVC or the benefit will get transferred to countries not attracting anti-dumping duty, it is noted that the import prices from third countries are higher than the dumped prices from subject countries. Imposition of antidumping duty in India will only give level playing field to the domestic industry, ensuring a competitive market for producers of subject goods in India. It will help India develop domestic manufacturing base for subject goods in India so that Indian consumers can benefit both from the domestic as well as global production of the subject goods.
- f. As regards the contention that the imposition of preliminary duty has led to rise in price of CPVC by around 30-40%, the Authority notes that imposition of ADD would remove the unfair advantages gained by dumping practices and would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

G. DUMPING AND DUMPING MARGIN

G.1. Submissions made by the domestic industry

- 32. The submissions made by the domestic industry with regard to normal value, export price and dumping margin are as follows:
 - a. The dumping margin calculated for the subject countries is significant.
 - b. None of the interested parties have claimed market economy status.
 - c. The normal value in case of China should be determined on the basis of import price into India from Japan, Thailand or USA as these three countries reflect the actual normal value in accordance of provisions of para-7 of Annexure-I.
 - d. The interested parties were given sufficient notice of surrogate country being considered for the purpose of normal value as the same was communicated in Para 10 of the initiation notification.
 - e. Since the consumption price in the domestic market is higher as compared to the export price and where the exporter has been repeatedly stating that the prices of CPVC resin is twice the price of PVC suspension resin, it is clear that price at

which Hanwha has sold CPVC in the domestic market in Korea is not a price in the ordinary course of trade.

- f. Hanwha Chemical Corporation has probably sold the product practically to two or three customers in Korea only. Thus, there is a possibility that the prices of the Korean producer may have an element of “development of its product”, which renders these prices as unreliable.
- g. Cost of production of Hanwha Chemical Corporation as provided to the Authority, cannot be accepted for determination of normal value
- h. In accordance of the provisions of section 9A 1(C), the normal value in case of Korea RP can be based on the import prices of subject goods in Korea.
- i. Details about calculation of export price have been provided as required by the trade notice.
- j. The calculations of dumping margin for the Korean producer in the preliminary finding should be considered for final finding as the producer has not been able to determine how its cost and selling price shall be accepted.
- k. The response filed by Hanwha Chemical Corporation needs to be rejected as the exporter has suppressed significant information in the response filed.
- l. The price from a market economy third country to India and the price paid or payable in India duly adjusted seems to be at the same level of determination and hence can be considered as normal value.
- m. Normal value cannot be determined based on cost of the producer exporter if it can be determined based on the first condition i.e. consumption price.
- n. The interested parties have not provided any information in regard to an appropriate third country.
- o. The importer has not substantiated anything for not considering import prices from Thailand as not reliable. Nothing has been provided by the importer in importer questionnaire response filed by them.
- p. The mere fact that it was held in Nylon Tyre Cord Fabric case that Thailand could not be considered appropriate surrogate country for that case, it does not necessarily imply that Thailand cannot be considered as an appropriate surrogate country even for the present case.
- q. The import price from Thailand has been adjusted with port expenses, overseas freight, marine insurance, inland freight, bank charges and profit to determine the normal value.
- r. The fact that imports from Thailand enjoy benefit of FTA in form of custom duty is irrelevant as the Applicant has compared the CIF import prices.

G.2. Submissions made by other interested parties

33. The submissions made by the other interested parties with regard to normal value, export price and dumping margin are as follows:

- a. Hon'ble Supreme Court in Shenyang Matsushita S. Battery Co. Ltd. vs Exide Industries Ltd [2005 (181) E.L.T. 320 (S.C.)] has clearly held that the normal value in case of China PR has to be determined in a sequential manner. Authority has altogether skipped to examine whether the first alternative could be adopted in the present case. The Authority has nowhere stated in the preliminary finding as to why the first method - price or constructed value in a market economy third country cannot be adopted.
- b. Authority did not propose selection of Thailand as an appropriate third country for normal value before recommending preliminary finding. Further, no reasoning was provided for choosing the highest import price amongst the available options.

- c. The Authority will have to justify considering import price from market economy third country to India as a basis of determining normal value.
- d. There is no finding on the level of development of the proposed country or product. Level of development in Thailand has been compared with the level of development in China.
- e. Imports from Thailand would not be sufficient to show price paid or payable as it would be based on as the source of sample selected which would be extremely limited and not reflective of actual price paid or payable.
- f. Thailand cannot be considered as an appropriate third country for China.
- g. The Authority has not considered the difference in the rate of duties applicable on imports from Thailand and China due to FTA
- h. Since the exporter from Thailand has a related importer i.e. Lubrizol India in India, the prices need to be checked minutely.
- i. As per Grunwald Logistik Service GmbH V Hauptzollamt Hamburg-Stadt (Case C-338/10), the choice of third country should be appropriate.
- j. The import prices of Japan, Thailand & USA cannot be considered for the purpose of normal value calculation for China as these imports are under exclusive license and hence are at higher prices.
- k. The Authority is requested to consider the consumption norms of the exporters even if the MET is not granted.
- l. In the past investigation concluded by Nylon Tyre Cord Fabric (NTCF) originating in or exported from China PR (13th April 2015), Thailand was not considered appropriate third country.
- m. The response of Hangzhou Electrochemical New Material Co., Ltd has been rejected on account of non-related producer not participating in the investigation. The producer cannot compel an unrelated exporter to participate in an investigation.
- n. Shandong Pujie Rubber and Plastic Co. Ltd. is not exporting CPVC Compound to India but still has been assigned residual rate with respect to CPVC Compound.
- o. Domestic sales made by M/s HCC of *** MT during POI and exports made to India were *** MT which is around ***% of exports to India. The domestic sales are made through an unrelated buyer. The quantum of domestic sales suffices the criteria for considering the same for consumption of normal value.
- p. The cost of PVC, chlorine, steam has been rightly captured by the exporter in the COP.
- q. The basis adopted by the Applicant for proposing the normal value is flawed. The invoices provided by the Applicant are untraceable.
- r. The Authority in the investigation for Calcium Carbide from China has determined that normal value cannot be determined based on few invoices.
- s. The startup cost incurred by Hanwha Corporation has been duly adjusted as per Korean Accounting Standards.
- t. There is no suppression of the fact of the Hanwha Corporation. It has provided all the details in the response.

H. DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN:

H.1. NORMAL VALUE FOR CHINA

34. Following producer exporters from China have filed the exporter's questionnaire response-

- a. Shandong Gaoxin Chemical Co Ltd
- b. Shandong Pujie Rubber and Plastic Co. ltd
- c. Hangzhou Electrochemical New Material Co. Ltd
- d. Weifang Sundow Chemical Co. Ltd
- e. Shandong Xuye New Materials Co. Ltd
- f. Shandong Xiangsheng New Materials Technology Co., Ltd

35. Under Annexure-I, Para 7 of the Rules, the normal value for non-market economy would be determined as:

"7. In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, [keeping in view the level of development of the country concerned and the product in question], and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments."

36. The Applicant has claimed that China PR should be treated as a non-market economy and the normal value should be determined in terms of paragraph 7 of Annexure-I of the Rules and claimed normal value in China on the basis of import prices into India from third countries namely; Japan, Thailand and USA, as the Applicant could not get relevant information on price or constructed value in market economy third country. While acknowledging the Applicant's claim to consider import price from Japan, Thailand or USA to determine normal value in China, the Authority had, for the purpose of initiation, constructed normal value of subject goods in China on the basis of cost of the Indian producer.

37. After the initiation, the Authority advised the producers/exporters in China to respond to the notice of initiation and provide information relevant to determination of their market economy status. The Authority sent questionnaire to all known producers/ exporters, giving them an opportunity to establish normal value on the basis of their own cost/price, by rebutting presumption of non-market economy, in accordance with criteria laid down in Para 8(3) of Annexure-I to the Rules. The Authority also requested Government of China PR to advise the producers/exporters in China to provide the relevant information. The known Chinese producers/ exporters and the Government of China PR were adequately notified about the requirement of information in the form and manner prescribed and adequate opportunity was granted to them to make their submissions in this regard. A number of producers/exporters have responded to the present investigation.

However, none of them filed relevant questionnaire response to enable the Authority to examine whether or not their cost and prices were market driven. Further, barring claim of domestic industry, none of the interested parties have provided any other alternative basis, as defined in the Rules, on which normal value can be determined. The interested parties, while disputing the claim of the domestic industry, have not provided any information for determination of normal value in China.

38. In view of the above position and in the absence of rebuttal of non-market economy claim by any Chinese exporting company, the Authority considered it appropriate to proceed with para-7 of Annexure-I to the Rules for determination of normal value for the preliminary determination. Paragraph 7 lays down hierarchy for determination of normal value and provides that *normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin.* Thus, the Authority noted that the normal value is required to be determined having regard to the various sequential alternatives provided under para 7 of Annexure-I to the Rules.
39. After preliminary finding various interested parties contended that no opportunity was provided to them with regard to selection of Thailand as appropriate market economy third country in terms of para-7 of Annexure-I of the Rules. The Authority notes that the claim of Applicant for treating export price from an appropriate market economy third country to India for determination of normal value was well brought out in the notice of initiation itself and a copy of the application was made available to all interested parties. In any case, since the Authority issued preliminary finding wherein export price from Thailand to India was considered for determining normal value and comments were invited on the same, the interested parties have got sufficient time and opportunity to comment on the proposal for considering Thailand as an appropriate market economy third country. It is noted that either at the stage of initiation or thereafter upon issuance of preliminary finding, none of the interested parties, barring domestic industry, has made any suggestion with regard to an appropriate market economy third country. Even after the preliminary finding, none of these parties have suggested any option which authority should adopt for determining normal value in China.
40. As regards the submissions that the Authority has not determined normal value for China PR in a sequential manner as held by the Hon'ble Supreme Court, the Authority notes that Normal Value for a country considered as a non-market economy is required to be computed in accordance with para 7 and 8 of Annexure-I of the Rules. In the instant case, since none of the exporters have filled up supplementary questionnaire, the options under para 7 of Annexure-I to Rules need to be explored. Para 7 lays down hierarchy for determination of normal value and provides that normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. The Authority notes that the normal value is required to be determined having regard to the various sequential alternatives provided under Annexure 7. Since, there is no information on record with regard to cost or price in Thailand, normal value could not be determined on the basis of it. Further, since sufficient information is available with regard to the price at which product under consideration has been exported from Thailand to India, the same cannot be ignored and option of adopting "any other basis" listed under the law cannot be adopted. The Authority, therefore, considers that the appropriate option available to

the authority is to adopt export price from Thailand to India which could be considered for determining normal value.

41. The interested parties have contended that Thailand cannot be considered as appropriate market economy third country in view of level of development, relationship with importer in India, difference in customs duties due to FTA and higher prices due to exclusive license. It is noted that the Authority is required to consider the level of development of the product and the country for determining appropriate market economy third country. The Authority notes that as far as the level of economic development is concerned none of the producers/exporters/importers/users have suggested any appropriate market economy third country. On the other hand, the domestic industry had suggested Thailand, Japan and U.S.A as appropriate market economy third country. Considering the options available viz. Japan, US or Thailand, the Authority notes that China PR and Thailand are more comparable in terms of level of economic development on various parameters. Thailand has also been considered as an appropriate market economy third country for China by other prominent trade remedy user WTO member countries like U.S.A. and European Union. Further, from transaction wise import data from DGCI&S, it is noted that while China PR accounts for 53,104 MT i.e. 27% of total imports of subject goods during POI, similar level of imports are from Thailand at around 51,808 MT constituting 28% of total imports into India, which indicates that the level of development of this particular product in China is comparable with that in Thailand. Also, the volume of import from Thailand is the highest amongst non-subject countries. Thailand being a non-subject country with no ADD measure in force and with import volume being quite significant, the CIF price from Thailand is representative in nature. It is further noted that the difference in customs duty also becomes irrelevant since normal value is computed in this case on the basis of export price from Thailand at ex-factory level. The customs duties would have been relevant only if the Authority had considered the price paid or payable in India. As regards relationship between exporter and importer, Authority notes that no evidence has been provided that the price reported to customs authorities is not appropriate. Mere existence of relationship in itself does not mean that the price is not reliable. In view of the above, the Authority has considered Thailand as the appropriate market economy third country and determined the normal value in terms of para 7 of Annexure-I of the Rules. The Authority accordingly considers that the most appropriate basis in the present case is the price at which goods have been exported from Thailand to India. The Authority has made appropriate adjustments on various elements like ocean freight, port expenses, inland freight, credit cost and marine insurance and bank charges as per consistent practice for arriving at an ex-factory price. The normal value so constructed is mentioned in the dumping margin table.

H.2. Normal value for Korea RP

42. Under Section 9A(1)(c), normal value in relation to an article means:

- i) *the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*
- ii) *when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-*

- (a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
- (b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

43. Only one producer, namely M/s Hanwha Chemical Corporation, Korea has filed the Exporter questionnaire response along with its related entity, namely M/s Hanwha Corporation. The questionnaire responses filed by the producer and exporter have been examined. At the time of issuance of preliminary finding, it was found that the questionnaire response was not in the form and manner prescribed. For example, Appendix 7 & 8 did not conform to the prescribed format, complete details of cost of production of captively consumed raw material were not submitted, formats submitted were uncertified, etc. The information submitted by producer/exporter was, thus, incomplete and not sufficient to enable the Authority to compute the cost of production. Therefore, at the time of issuance of preliminary finding, the Authority had decided not to consider the claimed domestic selling prices of the producer.
44. After issuance of preliminary finding, the Authority issued two deficiency letters pointing out the discrepancy to Hanwha Chemical Corporation. The producer responded to both the deficiency letters. It is now noted that there are significant changes in the data provided by the producer at different stages, as outlined below.
 - i. The volumes regarding production of PVC suspension, which is the primary raw material for producing CPVC, have been changed significantly in replies to the first and second deficiency letters as compared to the initial response.
 - ii. The producer has not filed complete information in Appendix-7 as per prescribed questionnaire at the time of original questionnaire response and failed to provide the essential information in respect of complete cost detail such as utilities, packing, consumable and store, depreciation, repair, R & D expenses, other manufacturing overhead, other administration overhead etc.
 - iii. The information pertaining to cost of sales and profit/ (loss) for the company as a whole as well as for the product under consideration was not provided in Appendix-7 initially. The producer/exporter subsequently provided the information relating to profit/(loss) in reply to the deficiency letters but changed the cost of sales and the profit/loss figures for the company as a whole as well as for the PUC.
 - iv. The producer/exporter failed to provide complete sales details of the products produced and consumed captively as well as sold in the market despite deficiency letters issued by the Authority.
45. As is clear above, the Authority notes that despite providing adequate opportunity to comply with the requirements, Hanwha Chemical Corporation changed the data of selling, general and administrative expenses, cost of production/ sales and profit/loss of the company as well as for the PUC. Besides, they have provided non-representative

details of sales of captive input. The suppression of this essential data by the producer/exporter creates doubts on the credibility of whatever data has been provided. Further, the change in the essential basic data also questions the reliability of the data provided by the producer/exporter. Therefore, the Authority finds that the information provided by the producer/exporter is unreliable and thus rejects the response in its entirety.

46. Hanwha is the sole producer of subject goods in Korea. In view of rejection of response of the producer/exporter and the unreliability of the data of this sole producer of PUC in Korea, the consideration of option of either the domestic selling price in Korea or the export price to third country cannot be considered. Moreover, the normal value can also not be constructed on the basis of cost of production in the Korea as the data of sole producer/exporter of the PUC has been found to be unreliable.
47. In the absence of all the above options, the Authority has proposed to determine normal value on the basis of facts available in terms of Rule 6(8) of the Rules. The domestic industry has claimed that normal value in Korea to be determined on the basis of the import prices of subject goods into Korea. The domestic industry has claimed that producer in Korea has only recently built the capacity for manufacture of the PUC and therefore large portion of the Korean demand for the PUC is still being met by the imports. The domestic industry has stated that the domestic demand of PUC in Korea RP is *** MT/ annum as per the information available in the public domain and that majority of this demand is being met by imports of PUC from Japan and therefore the import price of PUC from Japan into Korea RP should be taken for construction of normal value in Korea RP. In support of their claim, the Applicant has furnished sales invoices evidencing approx. 50% of export of the PUC from Japan to Korea. The Authority has explored the possibility of taking average import price from Japan to Korea and has accordingly analyzed the World Trade Atlas (WTA) data to ascertain the import price from Japan to Korea. It was however noted that the bifurcation of CPVC resin and CPVC compound data was not available in the WTA data on account of both these items, CPVC resin and CPVC compound, having same tariff code. Since separate normal values have been determined for CPVC resin and compound in this investigation for the reasons mentioned, taking average import price reported under WTA data will be inappropriate. In view of the above, the Authority has relied upon the invoices furnished by domestic industry for determination of normal value and export price in terms of Rule 6 (8) of Rules. The normal value and export price so calculated is given in the dumping margin table.
48. M/s Hanwha Chemical Corporation has filed a request vide its letter dated 16.01.2020 for change of name from Hanwha Chemical Corporation to M/s Hanwha Solutions Corporation with effect from 6th January, 2020 as two more entities with different business activities i.e. Qcells and Advanced Chemicals merged with M/s Hanwha Chemical Corporation. The said letter has been taken on record and is placed in public file.

I. DETERMINATION OF EXPORT PRICE

I.1. Export price for China PR

- i. **Export Price for (i) Shandong Gaoxin Chemical Co Ltd, (ii) Shandong Pujie Rubber and Plastic Co. Ltd, (iii) Weifang Sundow Chemical Co. Ltd, (iv) Shandong Xuye New Materials Co. Ltd and (v) Shandong Xiangsheng New Materials Technology Co., Ltd**
- 49. The Authority has relied upon the details of exports as given in Appendix 3 by the producers/exporters. The adjustments towards inland freight, ocean freight, port and other related expenses, insurance, credit cost, bank charges, VAT refund and packing cost have been accepted as claimed by the producer exporters. One of the producers have claimed the adjustment in export price on account of level of trade, however, the same has not been allowed by the Authority. The export price for PUC (for resin and compound) determined at ex-factory level is shown in the dumping margin table.

ii. Export Price for Hangzhou Electrochemical New Material Co. Ltd

- 50. M/s Hangzhou Electrochemical New Material Co. Ltd has filed response for Hangzhou Electrochemical New Material Co. Ltd and Hangzhou Electrochemical Group Co. Ltd. The examination of the response revealed that the producer has exported directly to India and also through unrelated exporter. Since the unrelated trader namely, Chiefdo Ltd., through whom majority of the exports to India has been made by producer namely, M/s Hangzhou Electrochemical New Material Co. Ltd, has not filed questionnaire response, the Authority rejects the response.

iii. Export price for all producers/exporters from China PR

- 51. The export price for other non-cooperative producers / exporters from China PR has been determined on the basis of facts available in term of Rule 6(8) of the Rules.

I.2. Export price for Korea RP

Export price for all producers/exporters from Korea RP

- 52. The export price for all the producers/exporters from Korea RP has been determined on the basis of DGCI&S transaction wise import data. Due adjustments have been made to arrive at ex-factory export price.

J. DETERMINATION OF DUMPING MARGIN

- 53. The dumping margin determined in the present investigation for all the subject countries is furnished in the following table: -

| SN | Particulars | Normal Value | Ex-factory Export Price | Dumping Margin | Dumping Margin | Dumping Margin |
|--------------|-----------------------------------|--------------|-------------------------|----------------|----------------|----------------|
| | | USD/MT | USD/MT | USD/MT | (%) | (Range) |
| A | China PR | | | | | |
| Resin | | | | | | |
| 1 | Shangdong Gaoxin Chemical Co. Ltd | *** | *** | *** | *** | 40-60 |

| | | | | | | | |
|----------|---|-----------------|-----------------|-----|-----|-------|--|
| 2 | Shangdong Pujie Rubber and Plastic Co Ltd | *** | *** | *** | *** | 50-70 | |
| 3 | Shandong Xiansheng New Material Technology Co Ltd | *** | *** | *** | *** | 40-60 | |
| 4 | Wei fang Sundow Chemical Co. Ltd | *** | *** | *** | *** | 40-60 | |
| 5 | Shangdong Xuye New Material Co Ltd | *** | *** | *** | *** | 50-70 | |
| 6 | All others | *** | *** | *** | *** | 60-80 | |
| | | Compound | | | | | |
| 1 | Shangdong Gaoxin Chemical Co. Ltd | *** | *** | *** | *** | 0-20 | |
| 2 | Shangdong Pujie Rubber and Plastic Co Ltd | - | - | - | - | - | |
| 3 | Shandong Xiansheng New Material Technology Co Ltd | - | - | - | - | - | |
| 4 | Wei fang Sundow Chemical Co. Ltd | - | - | - | - | - | |
| 5 | Shangdong Xuye New Material Co Ltd | *** | *** | *** | *** | 20-40 | |
| 6 | All others | *** | *** | *** | *** | 20-40 | |
| B | Korea RP | | | | | | |
| | | | Resin | | | | |
| 1 | All producers/exporters | *** | *** | *** | *** | 30-50 | |
| | | | Compound | | | | |
| 1 | All producers/exporters | *** | *** | *** | *** | 30-50 | |

K. INJURY AND CAUSAL LINK

K.1. Submissions made by the domestic industry

54. Following submissions have been made by the domestic industry with regard to injury and causal link:

- The demand of the subject goods has seen an increase over the injury period with the year 2016-17 showing a slight decline. On a quarterly basis, the demand of the product has seen an increase.
- The share of subject imports shows an increase. The share of imports is as high as 30% in some of the quarters.
- Import volume from other countries have increased but they are high priced and are not causing any harm to the Indian industry.
- The market share of the domestic industry is abysmally low as compared to the level it could have achieved. Further, even this level of market share was achieved after the domestic industry significantly reduced its selling prices.
- The volume of imports from subject countries have increased in absolute terms and in relation to consumption despite the domestic industry commencing its production.

- f. The prices of subject imports are lower than the prices of imports from non-subject countries.
- g. The production and capacity utilization of the domestic industry has seen an increase but still has not reached the optimum level in spite of 18 months production. The utilization of the domestic industry is still below 80%.
- h. The sales of the domestic industry have remained low.
- i. The domestic industry has been putting efforts to increase their production. However, due to cheap and dumped imports it has been left with level of inventories piling up.
- j. The low level of sales is neither due to technical constraints in new plant nor due to non-acceptance of product by customers.
- k. The selling price of the domestic industry is far lower as compared to the optimum and actual cost of sales.
- l. The selling price of the domestic industry is far below the targeted selling price.
- m. The imports are coming at a price lower than the actual and the optimum cost of sales of the domestic industry.
- n. The domestic industry will only be able to recover around 50% of costs even at its reasonable level of costs.
- o. The dumped imports are suppressing the prices of the domestic industry to an extent that the domestic industry will not be able to increase prices even at the level of optimum production.
- p. Since the domestic industry does not have data for the historical performance of the product under consideration, price suppression and depression should be determined based on period of investigation itself.
- q. Price undercutting was positive in the first quarter of 2017-18. However, post that the domestic industry was forced to reduce its prices and hence the undercutting was negative.
- r. Even the non-injurious price at 100% plant utilization shows positive price underselling.
- s. The domestic industry has been facing loss per unit sold and facing cash losses and a negative return.
- t. Even when the sales of the domestic industry were highest, the losses of were at highest level.
- u. Even with cost at 100% capacity utilization will lead to losses due to the low selling prices because of the dumped imports.
- v. The volume parameters of the domestic industry show an increase during the injury period, but it is only due to the fact that the Applicant is a new producer. The growth is much lower than the expected growth.
- w. Even the producers setting up capacities in India are rethinking about investing in the product because of the significant dumping happening in the Indian market. This shows that the ability to raise capital investment will be hampered.
- x. The dumped imports have been flowing in from the subject countries at an alarming rate which shows that the India is a market for these exporters. With the imports coming in such increased quantities they would be serious threat to all domestic industry and hence would restrict industrial development.
- y. The landed price of the imports has been suppressing the prices of the budding domestic industry. With the demand of the goods likely to increase, the imports are more likely to suppress the prices of the domestic industry and will force the domestic industry to stop producing due to unabated losses.
- z. The producer of subject goods in the subject countries are having surplus production capacities.

- aa. There are sufficient evidences to show export orientation of the producers in subject countries.
- bb. The growing demand of the subject goods in the Indian market gives the exporter an incentive to aggressively pursue exporting to India.
- cc. The domestic industry has been in operation for only 18 months and has already faced huge losses
- dd. The domestic industry has not been able to sell at reasonable prices.
- ee. Material retardation as a form of injury is able to address the issue of those industries who are at their very initial stage of establishment.
- ff. The subject imports are preventing the establishment of the domestic industry in the market.
- gg. The actual performance of the Domestic industry is quite adverse to the projections made before setting up the plant.
- hh. There are no other factors that could cause injury to the domestic industry.
- ii. Prejudice has been caused to the interest of the domestic industry as the start-up cost has been considered at optimum capacity utilization.
- jj. In order to calculate the demand and supply gap, imports from rest of the world are not required to be considered as the duties are not being sought on them.
- kk. Number of fresh investments in the product are being planned because of the fair market situation being created through interim duty.
- ll. The post period of investigation data shows increases in the import price.
- mm. As against the claim of the interested parties, DCW has not at all suffered injury due to any kind of water scarcity.
- nn. The Applicant being a new industry, consideration of a longer period of time would allow the Authority with more quantitative information.
- oo. There is no provision to determine NIP based on prospective period of investigation. The Authority has not undertaken such a practice in any other past material retardation case.
- pp. There is no legal requirement to provide separate injury information for resin and compound as they are merely two different forms of like article.
- qq. The inability of the domestic industry to meet the demand of the product in the market cannot deprive it from protection against dumped imports.
- rr. Dumping of the subject goods is preventing the domestic industry from starting investments in the project.
- ss. The production capacities in China and Korea are more than the demand in subject countries. Demand is hardly 10% and 25% of the installed in the China and Korea respectively.
- tt. Further capacity expansions are being planned in India. If the capacities reported are actually installed, the capacity in India would soon cross the demand of subject goods in India.
- uu. Even when 18 month period of investigation has been considered for determining the non-injurious price, the analysis has been done on quarter to quarter basis. Further there is no provision in the law to consider prospective period of investigation as contended by some interested parties.
- vv. The domestic industry has suffered both volume and price injury because of dumped imports and not due to unacceptance of the new product.
- ww. There have been numerous investigations in past where in spite of the price undercutting being negative, the Authority had concluded that the imports were causing injury to the domestic industry.
- xx. Reliance placed by some interested parties on other irrelevant investigation are inappropriate.

yy. Since Kem One has not commenced commercial production, there is no data of it that can be considered for determining non-injurious price.

K.2. Submissions made by other interested parties

55. Following submissions have been made by other interested parties with regard to injury and causal link:

- a. Authority has not disclosed the methodology adopted for the construction of the non-injurious price.
- b. While the Authority has considered CPVC resin and compound as one article, it has provided separate duty and margins. The same principle should also be followed for assessment of subject countries.
- c. The application contains only start-up conditions of an industry and not injury by the alleged dumped imports.
- d. The Authority has not considered other significant factors such as product mix of subject country prices vis-à-vis other country price.
- e. There is no guideline which has evolved for determination of "material retardation" under Indian law and thus, the initiation of the subject investigation is bad in law.
- f. It is not clear whether the overall and the material injury determined by the Authority in the preliminary finding is based on data and information of only one producer or both the producers.
- g. The Authority in one of the earlier investigation of imports of Non-Woven Fabric had examined prospective data for the material retardation examination. The Authority should conduct a similar examination in this investigation as well.
- h. As held in the Bridge Stone Tyre Manufacturing (Thailand) V. Designated Authority, mere increase in inventory does not show injury.
- i. The Authority in the investigation of X-Ray Security Inspection Equipment from the European Union has held that if there is a negative undercutting, the dumped imports cannot suppress the selling price of the domestic industry.
- j. When the prices from non-subject countries have increased, the domestic industry must explain why it could not match the prices of the non-subject countries.
- k. The domestic industry will not be able to meet the demand of the Indian Industry.
- l. There is negative price undercutting. Had the domestic industry increased its prices, the producers in the subject country would also be forced to increase their prices.
- m. As per Annual Report of DCW Limited, the scarcity of water was reason for the low productivity.
- n. The Applicant has not suffered any material retardation as there is no guideline to oversee the application of material retardation under current legal provisions in India
- o. Causal link analysis is to be examined only for the period during which the Domestic Industry has been producing the like article. The imports from other countries which are claimed to be at un-dumped prices have increased in relation to imports from the subject countries.
- p. The Applicant is relying merely on some of the news article to show capacity expansion which does not give sufficient evidence that capacity addition will be undertaken.
- q. The share of non-subject countries was higher than share of Korea and China. The Authority should have examined the inclusion of non-subject countries.
- r. If the domestic industry cannot compete with 25% of total imports catering to 20% of the total demand, then it cannot become world leader.

- s. The performance of the domestic industry has improved in post- period of investigation.
- t. Even the Applicant has admitted to the fact that the imports in the preliminary finding are overstated.
- u. The domestic industry must be asked to explain why it could not fetch prices equivalent to the prices of other countries.
- v. There is nothing on record to show that there has been a decline in import prices, increase in volumes or fall in raw material prices in the post period of investigation data.
- w. Comparison of PVC to CPVC has no relevance for the purpose of this investigation.
- x. The domestic industry has deflated the price of goods from non-subject countries.
- y. No factor has been attributed by the domestic industry for material retardation.

K.3. Examination by the Authority

- 56. The Authority has taken note of the arguments and counterarguments of the all the interested parties with regard to injury to the domestic industry. The injury analysis made by the Authority hereunder addresses the various submissions made by the interested parties.
- 57. It is noted that Rule 11 dealing with injury specifies that the Authority shall record a finding whether dumped imports of such article into India cause or threaten material injury to any established industry in India or materially retards the establishment of any industry in India. Further, it specifies that the Authority shall determine the injury to Domestic Industry, threat of injury to Domestic Industry, material retardation to establishment of Domestic Industry and a causal link between dumped imports and injury, taking into account all relevant facts, including the volume of dumped imports, their effect on price in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles and in accordance with the principles set out under the rules.
- 58. Recommendation by the WTO Committee on Anti-Dumping Practices suggests that as a general rule the period of data collection for dumping investigations normally should be twelve months, and in any case not less than six months, ending as close to the date of initiation as is practicable, while the period of data collection for injury investigations normally should be at least three years, unless a party from whom data is being gathered has existed for a lesser period, and should include the entirety of the period of data collection for the dumping investigation. Thus, while Committee of Anti-dumping Practices prescribed minimum three years as the period of data collection for injury assessment, it also specified that the same shall be subject to the condition that the party should have existed for at least such a long period. Thus, in a situation where the Domestic Industry has a history of its existence for less than the minimum prescribed period, it is evident that the Authority is entitled to consider such shorter period for which the Domestic Industry existed.
- 59. The Authority notes that in the case of new industries, the test of material retardation is required to be applied. The legal mandate is to evaluate, whether the establishment of the domestic industry is retarded by the imports into India. The examination for material retardation can thus be done only for the period during which the domestic industry existed.

60. In the present case, the Applicant commenced commercial production in July 2017 and therefore information for 3-year period is admittedly not available. However, considering that the period is lower than 3-year period, the Applicant has provided information on quarterly basis. On this basis, it is considered that it would be appropriate in the facts and circumstances of the present case to examine whether dumped imports caused material retardation to the establishment of the domestic Industry by considering the actual performance of domestic Industry over the period of its existence and by undertaking quarterly analysis.
61. Since the Applicant is a new producer in the country and commenced commercial production in the injury period itself, the performance of the Domestic Industry could have been impacted by the start-up operations. In order to remove injury effect on account of start-up operations, it was considered appropriate to evaluate the performance of the domestic industry during POI, derived on notional basis by considering 100% capacity utilization.

I. Cumulative assessment

62. Article 3.3 of WTO agreement and Annexure-II para (iii) of the Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:
 - a. The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article, and
 - b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.
63. The Authority notes that:
 - a. The subject goods are being dumped into India from the subject countries. The margins of dumping from each of the subject countries are more than the de minimis limits prescribed under the Rules.
 - b. The volume of imports from each of the subject countries is individually more than 3% of the total volume of imports as can be seen from the relevant table.
 - c. Cumulative assessment of the effects of import is appropriate as the exports from the subject countries not only directly compete with the like articles offered by each of them but also the like articles offered by the domestic industry in the Indian market. It is noted that the consumers who are buying from the domestic industry are also importing from amongst subject countries.
64. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of dumped imports of the subject goods from China PR and Korea RP on the domestic industry.

65. Rule 11 of the Rules read with Annexure-II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “.... *taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....*” In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure-II of the Rules.

66. The Authority has taken note of various submissions of the domestic industry and the exporters/importers/traders/users on injury to the domestic industry and has analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the interested parties.

67. Since the Applicant has commenced its commercial production only in the period of investigation, the Authority has considered that it would be better to conduct quarterly analysis of the injury parameters as well.

II. Volume Effect of dumped imports and impact on domestic Industry

i. Assessment of Demand

68. For the purpose of the present investigation, demand or apparent consumption of the product in India has been defined as the sum of domestic sales of the Applicant and imports from all sources. The demand so assessed is given in the table below:

| Particular | Unit | 2014-15 | 2015-16 | 2016-17 | POI (A) | POI |
|---------------------------|-------------|----------------|----------------|----------------|----------------|------------|
| Sale of domestic industry | MT | | | | *** | *** |
| Subject imports | MT | 10,256 | 21,240 | 29,583 | 41,673 | 62,509 |
| Other imports | MT | 69,357 | 88,098 | 62,642 | 89,784 | 1,34,676 |
| Total Demand | MT | 79,612 | 1,09,338 | 92,224 | *** | *** |
| Trend | Indexed | 100 | 137 | 116 | 170 | 255 |

| Particular | Unit | Q1 2017- 18 | Q2 2017- 18 | Q3 2017- 18 | Q4 2017- 18 | Q1 2018- 19 | Q2 2018- 19 | Total |
|---------------------------|---------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|----------|
| Sale of domestic industry | MT | *** | *** | *** | *** | *** | *** | *** |
| Subject imports | MT | 7,582 | 9,548 | 12,274 | 11,213 | 12,347 | 9,547 | 62,509 |
| Other imports | MT | 23,356 | 23,326 | 19,406 | 19,525 | 26,571 | 22,492 | 1,34,676 |
| Total Demand | MT | *** | *** | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 107 | 105 | 103 | 131 | 111 | |

69. The Authority notes that the demand of the subject goods has increased vis-à-vis the base year.

ii. Imports volumes and share of the imports from subject countries

70. With regard to the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. The volume of imports of the subject goods from the subject countries have been analyzed as under –

| SN | Particulars | Unit | 2014-15 | 2015-16 | 2016-17 | POI (A) |
|---|--------------------------|------|---------|----------|---------|----------|
| 1 | China PR | MT | 10,256 | 21,238 | 29,581 | 35,403 |
| 2 | Korea RP | MT | 0 | 1.9 | 2.05 | 6,270 |
| 3 | Subject imports | MT | 10,256 | 21,240 | 29,583 | 41,673 |
| 4 | Other imports | MT | 69,357 | 88,098 | 62,642 | 89,784 |
| 5 | Total imports | MT | 79,612 | 1,09,338 | 92,224 | 1,31,457 |
| 6 Subject imports in relation to | | | | | | |
| a | Indian production | % | | | | *** |
| | Range | | | | | 0-2000 |
| b | Indian Consumption | % | 13% | 19% | 32% | *** |
| | Range | | | | | 30-40 |
| c | Total Imports into India | % | 13% | 19% | 32% | 32% |

| SN | Particulars | Unit | Q1 2017-18 | Q2 2017-18 | Q3 2017-18 | Q4 2017-18 | Q1 2018-19 | Q2 2018-19 |
|----|-----------------|------|---------------|---------------|---------------|---------------|---------------|---------------|
| 1 | China PR | MT | 7,441 | 9,412 | 11,375 | 9,242 | 9,223 | 6,412 |
| 2 | Korea RP | MT | 141 | 136 | 899 | 1,971 | 3,124 | 3,135 |
| 3 | Subject imports | MT | 7,582 | 9,548 | 12,274 | 11,213 | 12,347 | 9,547 |
| 4 | Other imports | MT | 23,356 | 23,326 | 19,406 | 19,525 | 26,571 | 22,492 |
| 5 | Total imports | MT | 30,938 | 32,873 | 31,680 | 30,737 | 38,918 | 32,038 |

| 6 | Subject imports in relation to | | | | | | | |
|----------|---------------------------------------|---|-----------|-----------|-----------|-----------|--------|--------|
| a | Indian production | % | *** | *** | *** | *** | *** | *** |
| | Range | | 5000-7000 | 4000-6000 | 1000-3000 | 1000-3000 | 0-2000 | 0-2000 |
| b | Indian Consumption | % | *** | *** | *** | *** | *** | *** |
| | Range | | 10-30 | 10-30 | 30-50 | 30-50 | 20-40 | 20-40 |
| c | Total Imports into India | % | 25% | 29% | 39% | 36% | 32% | 30% |

71. It is seen that-

- i. Imports from subject countries have increased during the entire injury period and the POI in absolute terms. Even on quarterly basis, imports have increased throughout except during the last quarter (Q2 of 2018-19).
- ii. The imports from subject countries have witnessed substantial increase in relation to total imports and consumption in India. Even on quarterly basis imports remained significant from subject countries

III. Price Effect of the Dumped imports on the Domestic Industry

72. With regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like products in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, net sales realization and non-injurious price of the domestic industry have been compared with the landed cost of imports from the subject countries.

i. Price undercutting

73. Price undercutting has been worked out by comparing the landed price of imports with the net sales realization of the domestic industry for the period of investigation. Separate analysis has been done for CPVC resin and CPVC compound.

| SN | Period | CPVC Resin | | | | | |
|----|-----------------|---------------|-----------------------|--------------|--------------------|--------------------|--------------------|
| | | Import Volume | Selling Price (Rs/Kg) | Landed Price | Price Undercutting | Price Undercutting | Price Undercutting |
| | | MT | Rs./ Kg | Rs./ Kg | Rs./ Kg | % | Range |
| | POI (18 months) | 61,475 | *** | 92.98 | (***) | (***) | (0-10) |
| 1 | 2017-18 Q1 | 7,416 | *** | 93.54 | *** | *** | 10-20 |
| 2 | 2017-18 Q2 | 9,345 | *** | 91.44 | (***) | (***) | (0-10) |
| 3 | 2017-18 Q3 | 11,983 | *** | 91.75 | *** | *** | 0-10 |
| 4 | 2017-18 Q4 | 11,090 | *** | 91.15 | (***) | (***) | (0-10) |
| 5 | 2018-19 Q1 | 12,258 | *** | 93.52 | *** | (***) | (0-10) |

| | | | | | | | |
|------------------|-----------------|----------------------|------------------------------|---------------------|---------------------------|---------------------------|---------------------------|
| 6 | 2018-19 Q2 | 9,384 | *** | 97.10 | (***) | (***) | (0-10) |
| SN Period | | | | | | | |
| | | Import Volume | Selling Price (Rs/Kg) | Landed Price | Price Undercutting | Price Undercutting | Price Undercutting |
| | | MT | Rs./ Kg | Rs./ Kg | Rs./ Kg | % | Range |
| | POI (18 months) | 1,034 | *** | 149.46 | (***) | (***) | (0-10) |
| 1 | 2017-18 Q1 | 166 | *** | 151.93 | (***) | (***) | (0-10) |
| 2 | 2017-18 Q2 | 203 | *** | 152.64 | (***) | (***) | (10-20) |
| 3 | 2017-18 Q3 | 291 | *** | 149.06 | (***) | (***) | (10-20) |
| 4 | 2017-18 Q4 | 123 | *** | 149.06 | (***) | (***) | (0-10) |
| 5 | 2018-19 Q1 | 89 | *** | 139.24 | (***) | (***) | (0-10) |
| 6 | 2018-19 Q2 | 163 | *** | 149.57 | (***) | (***) | (0-10) |
| SN Period | | | | | | | |
| | | | | | Average | | |
| | | Import Volume | Selling Price (Rs/Kg) | Landed Price | Price Undercutting | Price Undercutting | Price Undercutting |
| | | MT | Rs./ Kg | Rs./ Kg | Rs./ Kg | % | Range |
| | POI (18 months) | 62,509 | *** | 93.91 | (***) | (***) | (0-10) |
| 1 | 2017-18 Q1 | 7,582 | *** | 94.81 | *** | *** | 10-20 |
| 2 | 2017-18 Q2 | 9,548 | *** | 92.74 | (***) | (***) | (0-10) |
| 3 | 2017-18 Q3 | 12,274 | *** | 93.11 | *** | *** | 0-10 |
| 4 | 2017-18 Q4 | 11,213 | *** | 91.79 | (***) | (***) | (0-10) |
| 5 | 2018-19 Q1 | 12,347 | *** | 93.85 | *** | (***) | (0-10) |
| 6 | 2018-19 Q2 | 9,547 | *** | 98.00 | (***) | (***) | (0-10) |

74. It is seen that the price undercutting is negative during the POI.

ii. Price suppression and depression.

75. In order to determine whether the dumped imports are causing price suppression or depression effect in the prices of the domestic industry, the Authority has considered the changes in the costs and prices over the period of investigation as compared to the landed price of imports. Further, cost of production has been computed at optimum cost of production by taking 100% capacity utilization because the actual costs are quite high due to low volume of production. The comparison of cost of sales and with selling prices has been undertaken in light of prevailing landed value of the imports as in the table below. Separate analysis has been done for CPVC resin and CPVC compound.

| SN | Particulars | Unit | POI | |
|----|-------------------------|-------|-------|----------|
| | | | Resin | Compound |
| 1 | Cost of sales (Actual) | Rs/Kg | *** | *** |
| 2 | Cost of sales (Optimum) | Rs/Kg | *** | *** |
| 3 | Selling price | Rs/Kg | *** | *** |
| 4 | Landed Price | Rs/Kg | 92.98 | 149.46 |

| SN | Period | POI- Actual | | | | |
|-------------|------------|---------------------------|-------|---------------|-------|-----------------|
| | | Cost of sales (Actual) | | Selling Price | | Landed Price |
| | | Rs/Kg | Trend | Rs/Kg | Trend | Rs/Kg |
| 1 | 2017-18 Q1 | *** | 100 | *** | 100 | 94.81 |
| 2 | 2017-18 Q2 | *** | 107 | *** | 83 | 92.74 |
| 3 | 2017-18 Q3 | *** | 103 | *** | 86 | 93.11 |
| 4 | 2017-18 Q4 | *** | 104 | *** | 85 | 91.79 |
| 5 | 2018-19 Q1 | *** | 105 | *** | 87 | 93.85 |
| 6 | 2018-19 Q2 | *** | 104 | *** | 83 | 98.00 |
| POI at 100% | | | | | | |
| SN | Period | Cost of sales | | Selling Price | | Landed Price |
| | | Rs/Kg | Trend | Rs/Kg | Trend | Rs/Kg |
| 1 | 2017-18 Q1 | *** | 100 | *** | 100 | 94.81 |
| 2 | 2017-18 Q2 | *** | 97 | *** | 83 | 92.74 |
| 3 | 2017-18 Q3 | *** | 96 | *** | 86 | 93.11 |
| 4 | 2017-18 Q4 | *** | 97 | *** | 85 | 91.79 |
| 5 | 2018-19 Q1 | *** | 98 | *** | 87 | 93.85 |
| 6 | 2018-19 Q2 | *** | 99 | *** | 83 | 98.00 |

76. It is seen that -

- Selling price of the domestic industry is far below its actual cost of sales and even below its optimum cost of sales.
- Landed value of imports is lower than the actual cost of sales and optimum cost of sale.
- The domestic industry is unable to recover even the cost.
- The cost and selling price trends on quarterly basis suggest that the imports are suppressing and depressing the prices of the domestic industry.

iii. Price underselling

77. The Authority has also examined the price underselling suffered by the domestic industry on account of dumped imports from the subject countries. For this purpose, the non-injurious price determined for the domestic industry has been compared with the landed price of imports. The capacity utilization has been optimized at 100% for the computation of NIP.

| SN | Particulars | Unit | Resin | Compound |
|----|---------------------|-------|--------|----------|
| A | China PR | | | |
| 1 | Import Volume | MT | 52,381 | 723 |
| 2 | Non-Injurious Price | Rs/Kg | *** | *** |

| | | | | |
|----------|---------------------|-------|-------|--------|
| 3 | Landed Value | Rs/Kg | 92.41 | 154.52 |
| 4 | Price Underselling | Rs/Kg | *** | *** |
| 5 | Price Underselling | % | *** | *** |
| 6 | Price Underselling | Range | 50-60 | 20-30 |
| B | Korea RP | | | |
| 1 | Import Volume | MT | 9,094 | 311 |
| 2 | Non-Injurious Price | Rs/Kg | *** | *** |
| 3 | Landed Value | Rs/Kg | 95.01 | 136.99 |
| 4 | Price Underselling | Rs/Kg | *** | *** |
| 5 | Price Underselling | % | *** | *** |
| 6 | Price Underselling | Range | 50-60 | 30-40 |

78. It is seen that the price underselling is positive and significant for both Resin and Compound from each of the subject countries.

79. The injury margin for cooperative producers/exporters are evaluated as under: -

| SN | Particulars | NIP | Landed Price | Injury Margin | Injury Margin | Injury Margin |
|-----------------|---|--------|--------------|---------------|---------------|---------------|
| | | USD/MT | USD/MT | USD/MT | (%) | (Range) |
| A | China PR | | | | | |
| Resin | | | | | | |
| 1 | Shangdong Gaoxin Chemical Co. Ltd | *** | *** | *** | *** | 40-60 |
| 2 | Shangdong Pujie Rubber and Plastic Co Ltd | *** | *** | *** | *** | 50-70 |
| 3 | Shandong Xiansheng New Material Technology Co Ltd | *** | *** | *** | *** | 40-60 |
| 4 | Wei fang Sundow Chemical Co. Ltd | *** | *** | *** | *** | 40-60 |
| 5 | Shangdong Xuye New Material Co Ltd | *** | *** | *** | *** | 50-70 |
| 6 | All others | *** | *** | *** | *** | 40-60 |
| Compound | | | | | | |
| 1 | Shangdong Gaoxin Chemical Co. Ltd | *** | *** | *** | *** | 0-20 |
| 2 | Shangdong Pujie Rubber and Plastic Co Ltd | - | - | - | - | - |
| 3 | Shandong Xiansheng New Material Technology Co Ltd | - | - | - | - | - |
| 4 | Wei fang Sundow Chemical Co. Ltd | - | - | - | - | - |
| 5 | Shangdong Xuye New Material Co Ltd | *** | *** | *** | *** | 20-40 |
| 6 | All others | *** | *** | *** | *** | 20-40 |
| B | Korea RP | | | | | |
| Resin | | | | | | |
| 1 | All producers/exporters | *** | 1,431 | *** | *** | 40-60 |

| | | | | | Compound | |
|---|-------------------------|-----|-------|-----|----------|-------|
| 1 | All producers/exporters | *** | 2,061 | *** | *** | 20-40 |

IV. Economic parameters of the domestic industry

80. Annexure-II to the Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of like product. The Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. An examination of the performance of the domestic industry reveals that the domestic industry has suffered material injury. The various injury parameters relating to the domestic industry are discussed below.

81. The Applicant is a new industry and has started its commercial production in April 2017. The economic parameters have been analyzed for the period of investigation and the trends have also been analyzed on quarterly basis.

a. Capacity, Capacity Utilization, Production and sale

82. The domestic industry has set up facilities to manufacture CPVC resin and CPVC compound. For calculating the capacity utilization of the plant, the Authority has converted production of compound into equivalent resin production which has been used for analysis of the performance of the domestic industry. The details are as shown in table below:

| SN | Particulars | Capacity | Equivalent resin production | Trend | Capacity Utilization | Trend | Production (Resin and Compound) | Trend | Domestic Sales (Resin and Compound) | Trend |
|----|-------------|----------|-----------------------------|----------------|----------------------|----------------|---------------------------------|----------------|-------------------------------------|----------------|
| | | MT | MT | <i>Indexed</i> | % | <i>Indexed</i> | MT | <i>Indexed</i> | MT | <i>Indexed</i> |
| 1 | 2017-18 Q1 | 2,500 | *** | 100 | *** | 100 | *** | 100 | *** | 100 |
| 2 | 2017-18 Q2 | 2,500 | *** | 150 | *** | 140 | *** | 161 | *** | 1,175 |
| 3 | 2017-18 Q3 | 2,500 | *** | 593 | *** | 560 | *** | 633 | *** | 7,467 |
| 4 | 2017-18 Q4 | 2,500 | *** | 699 | *** | 660 | *** | 746 | *** | 8,233 |
| 5 | 2018-19 Q1 | 2,500 | *** | 1,637 | *** | 1,540 | *** | 1,691 | *** | 13,608 |
| 6 | 2018-19 Q2 | 2,500 | *** | 1,625 | *** | 1,540 | *** | 1,698 | *** | 18,150 |

83. It is seen that -

- a. The production and capacity utilization of the domestic industry have increased during the period of investigation. However, the same was natural on account of the commencement of the plant in the period of investigation.
- b. It is also noted that there is a significant idle capacity with the domestic industry considering the demand in India.

c. On average basis, the capacity utilization of the domestic industry is 38%, which is quite low.

b. Market Share

84. The market share of the domestic industry on quarterly basis during the POI is as under:

| SN | Particulars | Imports from Subject countries | Imports from Other Countries | Sales of DI | Demand | Share of DI | Share of subject countries | Share of Other countries |
|----|-------------|--------------------------------|------------------------------|-------------|--------|-------------|----------------------------|--------------------------|
| | | MT | MT | MT | MT | Range | Range | Range |
| 1 | 2017-18 Q1 | 7,582 | 23,356 | *** | *** | 0-10 | 20-30 | 70-80 |
| 2 | 2017-18 Q2 | 9,548 | 23,326 | *** | *** | 0-10 | 20-30 | 70-80 |
| 3 | 2017-18 Q3 | 12,274 | 19,406 | *** | *** | 0-10 | 30-40 | 60-70 |
| 4 | 2017-18 Q4 | 11,213 | 19,525 | *** | *** | 0-10 | 30-40 | 60-70 |
| 5 | 2018-19 Q1 | 12,347 | 26,571 | *** | *** | 0-10 | 30-40 | 60-70 |
| 6 | 2018-19 Q2 | 9,547 | 22,492 | *** | *** | 0-10 | 20-30 | 60-70 |

85. It is seen that-

- In the initial two quarters, the share of domestic industry was quite low. It increased thereafter. However, the share of the domestic industry remained insignificant.
- The share of the subject imports has been significant and increased from Q1 of 2017-18 to Q3 of 2017-18 and then declined.
- The share of the other countries has declined up to Q3 of 2017-18 and then increased.

c. Profits, PBIT, return on investment and cash flow

86. Analysis of the performance of the domestic industry with regard to actual profit/loss, cash profits, PBIT (Profits before Income and Tax) and return on investment are given in the table below. Since the plant is a new facility where production commenced only during the period of investigation and with the actual production of the domestic industry below its projection levels, the Authority has determined profit parameters after considering 100% capacity utilization during the period of investigation.

| SN | Period | Cost of sales | Selling Price | Profit/Loss | Profit/(Loss) | Cash profits | PBIT | ROCE |
|----|------------|---------------|---------------|-------------|---------------|--------------|---------|--------|
| | | Indexed | Indexed | Indexed | Indexed | Indexed | Indexed | Range |
| | | Rs/Kg | Rs/Kg | Rs/Kg | Rs/Lacs | Rs/Lacs | Rs/Lacs | % |
| 1 | 2017-18 Q1 | 100 | 100 | (100) | (100) | 100 | 100 | 0-10 |
| 2 | 2017-18 Q2 | 97 | 88 | (164) | (164) | (217) | (289) | (0-10) |
| 3 | 2017-18 Q3 | 96 | 92 | (126) | (126) | (27) | (55) | (0-10) |
| 4 | 2017-18 Q4 | 97 | 92 | (131) | (131) | (55) | (90) | (0-10) |
| 5 | 2018-19 Q1 | 98 | 93 | (142) | (142) | (119) | (284) | (0-10) |
| 6 | 2018-19 Q2 | 99 | 95 | (136) | (136) | (93) | (252) | (0-10) |

87. It is seen that -

- a. The domestic industry has not been able to sell its product at prices above the cost of production and hence has been running into losses.
- b. Cash profit has also followed the same trend as that of PBIT. While the first quarter of the period of investigation recorded cash profits, the domestic industry has run into cash losses in all the other quarters of the period of investigation.
- c. Consequently, the domestic industry earned positive but minimal return on capital employed in the first quarter of period of investigation but has earned a negative return consistently thereafter.

d. Employment, Wages and Productivity

88. The Authority has examined the information relating to employment, wages and productivity, as in the table given below.

| Parameters | Unit | POI-A |
|---------------------------|----------|-------|
| No of Employees | Nos. | *** |
| Wages | Rs. Lacs | *** |
| Productivity per day | MT/Day | *** |
| Productivity per Employee | MT/Nos | *** |

89. It can be inferred from the quarterly production data given above that the productivity per employee has improved.

e. Inventory

| SN | Quarter | Average | |
|----|------------|---------|---------|
| | | MT | Indexed |
| 1 | 2017-18 Q1 | *** | 100 |
| 2 | 2017-18 Q2 | *** | 113 |
| 3 | 2017-18 Q3 | *** | 99 |
| 4 | 2017-18 Q4 | *** | 69 |
| 5 | 2018-19 Q1 | *** | 104 |
| 6 | 2018-19 Q2 | *** | 132 |

90. It is seen that inventory has increased in the last quarter as compared to the first quarter.

f. Growth

91. The Authority notes that the Applicant has set up new capacities in the face of large existing and future demand but has not been able to reach optimum levels of production, sales and capacity utilization.

g. Magnitude of Dumping

92. The dumping margin determined in respect of the producers/exporters from the subject countries is significant for the period of investigation.

h. Factors Affecting Domestic Prices

93. Imports from subject countries are at a price materially below the cost of production and non-injurious price of the domestic industry. Since the only competition to the domestic industry is imports and the domestic industry is new producer in the country, it is the import price that is solely responsible for the prices offered by the domestic industry. The imports from other countries are at much higher prices.

i. Ability to raise capital investment

94. Despite fresh investments in India in the product and sufficient demand in the country, the performance of the domestic industry is adverse. The negative profitability, cash losses, negative return on capital employed indicates that the ability of the domestic industry to raise capital investments for the sector is hampered due to the dumped imports from the subject countries.

V. Post POI Analysis

95. Other interested parties have argued that the Authority should also examine the post POI situation of the domestic industry as at the time of initiation of the investigation, the domestic industry had only 18 months of history and after that domestic industry has completed more than a year by now. Considering, the domestic industry as nascent industry at the time of initiation of the case, the Authority has examined the post POI imports, demand, market share and performance of the domestic industry. Post POI analysis has been considered from Oct. 18 to Sept. 19. The data as provided by DI has been considered for the analysis.

a. Imports volumes and share of the imports from subject countries

96. The table below shows import volume from subject countries and other countries during Post POI-

| SN | Particulars | Unit | Post POI |
|-----------|------------------------------------|-------------|-----------------|
| A | Import Volume | | |
| 1 | Subject Countries | MT | 42,950 |
| 2 | Other Countries | MT | 91,781 |
| 3 | Total import volume | MT | 1,34,731 |
| B | Market Share in Imports | | |
| 1 | Subject Countries | % | 32% |
| 2 | Other Countries | % | 68% |
| 3 | Total Share in total import volume | % | 100% |

97. It is seen that the imports from subject countries have further increased in absolute terms in post POI.

b. Demand and Market Share

98. The table below shows demand and market share of domestic industry, subject countries and other countries during Post POI-

| SN | Particulars | Units | POI (A) | Post POI |
|-----------|--------------------------------|--------------|----------------|-----------------|
| 1 | Sales of Domestic Industry | MT | *** | *** |
| 2 | Imports from Subject Countries | MT | 41,673 | 42,950 |
| 3 | Import from Other Countries | MT | 89,784 | 91,781 |
| 4 | Total Demand | MT | *** | *** |
| 5 | Share in Demand of | | | |
| a | Domestic Industry | % | 0-10 | 0-10 |
| b | Subject Countries | % | 30-40 | 20-30 |
| c | Other Countries | % | 60-70 | 60-70 |
| d | Total | % | 100 | 100 |

99. It is seen that the demand has shown rising trend in Post POI. The share of the domestic industry has increased whereas share of the subject countries has declined marginally (less than 1%). The share of other countries has also declined.

c. Performance parameters of the domestic industry

100. The table below shows the relevant parameters of the domestic industry during post POI.

| SN | Particulars | Unit | Post POI |
|-----------|---------------------------|-------------|-----------------|
| 1 | Capacity | MT | 10,000 |
| 2 | Equivalent Production | MT | *** |
| 3 | Capacity Utilization | % | *** |
| 4 | Domestic Sales - Resin | MT | *** |
| 5 | Domestic Sales - Compound | MT | *** |
| 6 | Market Share | % | *** |
| 7 | Profit/(loss) | Rs/MT | (***) |
| 8 | ROI | % | 0-10 |
| 9 | Cost of Sales | Rs/MT | *** |
| 10. | Selling Price | Rs/MT | *** |

101. It is seen that the production, sales and capacity utilization of the domestic industry has increased although lower than the optimum. The selling price of the domestic industry is still lower than the cost of sales during post POI and as a result, the domestic industry is incurring losses. The ROI of the domestic industry has become positive but is way below optimal level.

VI. Conclusions on Injury

102. The examination of the imports of the subject product and performance of domestic industry shows that: -

- a. The subject imports have increased in absolute and relative terms despite fresh investment in the country.
- b. There is negative price undercutting accompanied with loss suggesting that the domestic industry has been forced to sell at low prices to survive in the market.
- c. The imports have forced the domestic industry to sell at prices below the cost of the industry.
- d. The production and sales of the domestic industry despite increase over the period remains considerably low vis-à-vis domestic demand.
- e. The imports are at a price below cost of production and NIP of the domestic industry.
- f. The domestic industry has suffered financial losses, cash losses and negative return on investments. The performance of the domestic industry has suffered adversely during the period of its existence and its performance is far below the targeted/projected levels and its establishment is being materially retarded by dumping of the product from subject country.
- g. During post POI, there is an improvement in the performance of the domestic industry in terms of volume parameters whereas price parameters are still negative despite marginal improvement.

VII. Other known factors and causal link

103. Having examined the existence of injury, volume and price effects of dumped imports on the prices of the domestic industry, the Authority has examined whether injury to the domestic industry can be attributed to any factor, other than the dumped imports, as listed under the Anti-Dumping Rules.

a. Volume and prices of imports from third countries

104. While the imports from European Union, Japan, Thailand and United States of America are above the de-minimis level, there is a significant price difference in the imports from the subject countries and non-subject countries. The price of the imports from non-subject countries are significantly higher and appear to be fair priced. These imports do not appear to be affecting the performance of the domestic industry. The Authority holds that the domestic industry has not suffered injury as a result of imports from non-subject countries.

b. Contraction in demand

105. Since the demand for the product under consideration has increased over the injury period, the domestic industry has not suffered injury on this account.

c. Changes in the pattern of consumption

106. The Authority has not found any possible changes in pattern of consumption, which could have caused injury to the domestic industry.

d. Trade restrictive practices of and competition between the foreign and domestic producers.

107. The Authority notes that there is no trade restrictive practice which could have contributed to the injury to the domestic industry.

e. Developments in technology

108. The Authority notes that the investigation has not shown any change in technology for production of the product, which could have caused injury to the domestic industry.

f. Export performance

109. The Applicant has not exported the product under consideration. Hence, claimed injury to domestic industry cannot be attributed to exports.

g. Performance of other products being produced and sold by the domestic industry:

110. The Applicant is a multiproduct company; however, the cost and financials data have been segregated and considered only for PUC and analyzed for the present investigation.

VIII. Conclusion on Causal link

111. The other factors have not caused any injury to the domestic industry. The Authority holds that the injury to the domestic industry has been caused only because of the dumped imports from the subject countries.

L. POST DISCLOSURE SUBMISSIONS

112. The post disclosure submissions have been received from the interested parties. Most of the issues raised therein have already been raised earlier during the investigation and addressed appropriately in the relevant parts(s) above of this Final Finding. Additional submissions have been analysed as under:

IX. Submissions made by the domestic industry

113. The submissions made by the domestic industry on the disclosure statement are as follows:-

- a. The primary production involved is in production of resin. Production process from resin to compound is a minor incremental process undertaken to make the product usable and it does not transform the essential characteristics of product.
- b. CPVC resin has no independent use and has to be compulsorily processed into compound.
- c. Level of investment in compounding is not significant. The major investment is in making resin. The compounding process is neither high-tech automated process nor highly skilled manpower process.

- d. Even in past investigations, Authority has considered the product and its prior or subsequent/ processed stage as one article.
- e. The tariff classification for the product under consideration has undergone change and the new classification is 3904 9010.
- f. The imports of CPVC compound from the countries like Sri Lanka and UAE, which do not have production facility for resin, should also be subject to antidumping duty in India if CPVC resin has been exported to that country from Korea or China.
- g. If anti-dumping duty is not charged on the resin component of the article imported from countries not manufacturing resin, the importers will start sourcing the imports from such sources.
- h. Barring the petitioners, no interested party has made any suggestion for appropriate market economy third country for determining normal value for China. Out of the available options of EU, Japan, Thailand and USA, Thailand is the most appropriate country for present purpose.
- i. M/s Hanwha Chemical Corporation has suppressed information in the response filed by it. Information of the research activities undertaken by the company has been hidden from the Authority. Hanwha was producing CPVC and did not have the technical expertise to manufacture the product. As per the website of the company, it has been awarded standards by the Korean Agency of Technology for its CPVC manufacturing technology. Thus, the respondent (exporter) must have incurred significant cost in the development of the technology and this cost should have been charged to the product.
- j. Hanwha produces caustic soda, chlorine, PVC suspension resin, hydrogen, steam and power captively and there is nothing in the response for valuation to demonstrate how the prices indicated in the response represent market price.
- k. Hanwha has an office in India through which it undertakes sales activities. This fact has been hidden from the response.
- l. The response filed by it does not meet the standards of the trade notice issued by DGTR and the AD Rules.
- m. The domestic selling price and the cost of production of Hanwha cannot be accepted since they are not in ordinary course of trade.
- n. As per Supreme Court order in case of Ministry of Commerce vs M/s. Haldor Topsoe, when information with regard to the prices prevailing in the subject country is available, Authority cannot choose other options for normal value.
- o. CESTAT in the matter of Universal Chemicals had held that verification should only be conducted when the exporter has cooperated to the best of its ability.
- p. It is a global practice to reject the response in case there is material change in the data.
- q. The Authority should propose ad-valorem form of duty as benchmark duty fails to serve the purpose. Exporters keep price of the product artificially high to avoid benchmark form of anti-dumping duty.
- r. There is no mechanism with the custom authorities nor is it practicable to verify the overpricing or ensure correctness of prices.
- s. There is a significant difference in the price and the cost of both the products, therefore fixed form of duty will lead to overprotection of resin and under protection for compound.

X. Submissions made by other interested parties

114. The submissions made by the other interested parties on the disclosure statement are as follows:-

- i. Usability of a product is an “essential characteristic” in itself. The fact that CPVC Resin is useless without compounding, and the product which has utility is CPVC Compound, means that the value addition in compounding is significant and leads to change in the usability characteristic.
- ii. For example- In the investigation concerning import of Ammonium Nitrate, Ammonium Nitrate Melt was not regarded as “like product”, even though the imported product- Ammonium Nitrate in granular form was necessarily required to be converted into Ammonium Nitrate Melt so that it had “usability” in its industrial application.
- iii. To consider the tariff code of the subject goods as an identifier of the “incremental” nature of “compounding” process is not correct. Further, merely falling under the same “tariff heading” does not mean that two products may be treated as having identical characteristics.
- iv. The Authority has stated that the end-use markets for the intermediate product, CPVC Resin, and the end-product, CPVC Compound, are essentially the same. This is not true as the buyers of resin and the buyers of compound are distinct, have different capacities and sell their product to different markets.
- v. The chemical structures being identical is not a criterion for treating two products as “identical” for the purpose of PUC / like article. In this regard, reliance is again placed on the Authority’s stance in the Ammonium Nitrate investigation.
- vi. The Authority has failed to consider that the ratio of CPVC Resin and CPVC Compound entering from China PR and Korea RP are distinct. It also failed to consider that two products (admittedly different products) cannot be combined and assumed to be one product for cumulative assessment.
- vii. The Authority has simply stated that it is “essential” for the producer to be a Resin manufacturer and not just a compound manufacturer for the purpose of scope of domestic industry and standing. This line of reasoning is circular. We request the Authority to clarify why it is “essential” for the producer to be a manufacturer of CPVC Resin regardless of whether or not they produce CPVC compound or not.
- viii. The Petitioner is a manufacturer of MPVC and therefore, it is unclear why the cost of importation is being incurred by the Petitioner. The Authority must examine and reveal how such importation over captive consumption impacts the costs of the Petitioner.
- ix. It is also relevant to examine why a manufacturer of MPVC imports the same from foreign sources and the nature of the transaction therein and the associated costs thereof.
- x. It is suspected that the reason for such importation is the execution of a technical license agreement between the Petitioner and Arkema, France which mandates the imports of MPVC from France. The Authority should examine the Petitioners’ import prices of MPVC. This exercise is mandatory in order to ensure that the cost (and even the NIP) is not unduly inflated.
- xi. The Authority’s preliminary finding failed to comply with the requirement of making a “further determination” as under Section 9B(1)(b)(iii) it is provided that the Central Government shall not levy anti-dumping duty under 9A(2) unless a preliminary finding has been made of dumping and consequent injury to domestic industry and a further determination has been made that a duty is necessary to prevent injury being caused during the investigation
- xii. It is highly arbitrary to choose a data set simply because it shows a higher volume of imports, without even assessing the data. The Authority appears to believe that this is a rationale for choosing one data set over the other.
- xiii. After the Preliminary Finding, the Authority has realized that the data of DG Systems contained certain reportage which were duplicates of each other and merit exclusion anyway.
- xiv. Such a cumulation “hides” the significantly low volume of CPVC Compound imports from both the subject countries.

- xv. If at all the Authority recommends the imposition of anti-dumping duties in the present case, the Authority must recommend a benchmark-price based duty rather than a fixed duty which would be unduly burdensome to the users and importers of the subject goods;
- xvi. If at all the Authority recommends the imposition of anti-dumping duties in the present case, the Authority must ensure that the recommendation of duty is for a limited period of time such that the Petitioner may continue to receive some protection while also completing a reasonable amount of time with performance, enabling the Authority a fuller and better opportunity to realistically assess its market position and injury.
- xvii. Duty should be recommended in ad-valorem form as imposition of duty in benchmark form would not be proper as the price of PUC is volatile and not stable.
- xviii. Imposition of benchmark form of duty would lead to increasing duty in the future and may even lead to duty being higher than the margin of dumping.
- xix. In the original response, HCC provided the details of consumption quantity of PVC Suspension used for PUC production whereas in second supplementary response, HCC provided the production quantity of PVC Suspension as well as consumption quantity used to produce CPVC during the POI.
- xx. The argument regarding the change in the production of PVC Suspension has been raised by DGTR at 'later stage'. The DGTR did not ask any clarification regarding the same during the whole investigation process
- xxi. Though HCC did not provide complete cost items as prescribed by DGTR in the questionnaire in the original response submission, HCC provided the complete information of Appendix-7 in the 2nd supplemental response according to the instruction of 2nd deficiency letter.
- xxii. HCC reported in the 2nd supplemental response its cost on the basis of the cost elements maintained by HCC's normal cost accounting system which are in accordance with the K-GAAP as well as DGTR's request in the 2nd deficiency letter. So, there is no ground for DGTR to determine that the HCC's reported cost is unreliable or deniable.
- xxiii. In the second deficiency letter issued, DGTR has requested HCC to match Appendix-7 with Appendix-9. Therefore, to comply with the instructions of DGTR, HCC had to change Appendix-7 by applying the ratios of SG&A, non-operating income/expense and financial income/expense to sales value rather than COGS which was used in HCC's original response and 1st supplemental response. The change in the profit/(loss) company-wise or PUC wise is not what HCC intended.
- xxiv. Though DGTR has sufficient chances of on-site verification on HCC for the time period between 2nd supplemental response dated on October 24, 2019 and the issuance of disclosure statement on January 29, 2020 (more than 3 months), DGTR itself neglected its duty to conduct the verification on the cooperating respondent, HCC and unduly deprived HCC of its right to defend HCC's position without proper notice by DGTR.
- xxv. There is no ground or indication in the Disclosure Statement relating to HCC's export price which HCC's response in terms of export price should be rejected in the dumping margin calculations. In the final finding, the export price should be based on HCC's reported export price rather than import data.
- xxvi. Certain errors which have crept into the calculation of "landed value" for Shandong Gaoxin Chemical Co., Ltd. and Shandong Pujie Rubber and Plastic Co. Ltd. These are to be rectified.
- xxvii. Certain parties are not exporting CPVC Compound during the POI, and therefore, the Authority must expressly reserve their right to apply for New Shipper Review of these parties.
- xxviii. The Authority has not revealed how it compared the level of development of the product and the country for the purpose of determining the appropriate market economy third country.

- xxix. Further, the Authority, as per paragraph 7 of Annexure-I of the AD Rules, is required to consider not just the level of development of the product and country but also take “due account of any reliable information made available at the time of the selection”.
- xxx. The burden of selection of market economy third country, including the suggestion for the same, falls on the Authority and not upon the parties to the investigation.
- xxxi. The Authority has shifted its investigative function to the interested parties, and then when the parties have failed to fulfil that unwarranted mandate, punitively chosen Thailand as a surrogate country out of the suggestions of the Petitioner.
- xxxii. The Authority appears to assume that having comparable volume of sales to India shows a comparableness between products originating in two different countries.
- xxxiii. Duty-free Thai goods have a significant 7.5% margin advantage as compared to the duty-paid goods from China PR. As such, it is natural that the Thai prices would be about 7.5% higher than the prices of the imports from China PR. This is an important reason why Thai prices are incomparable with Chinese prices making Thailand an inappropriate surrogate country.
- xxxiv. Thai import price reported to the customs Authorities would show a marked difference in related party transaction prices and unrelated party transaction prices. The Authority has not even examined whether the same is evidenced by the import data under consideration. Instead, the Authority has attempted to claim that a mere relationship between the related parties does not mean that a price is unreliable.
- xxxv. The Authority has considered the volume of sales and pricing for an unrelated and non-participating exporter in determination of ex-factory export price for the Shandong Gaoxin Chemical Co., Ltd. and Shandong Pujie Rubber and Plastic Co. Ltd. The same is also being incorporated in the determination of the dumping margin with respect to these producers.
- xxxvi. The Authority may clarify the rationale for such a consideration even though majority of the sales to India have been made via direct route, and not via unrelated exporters. The Authority should grant the level of adjustment.
- xxxvii. There was no adequate notice to the interested parties of consideration of Thailand as a surrogate third country market economy for China. The statement in the initiation notice was only a reproduction of the claims of the domestic industry.
- xxxviii. Para 7 of Annexure-I mandates Authority to inform interested parties about third country market economy post the selection of the country so that the interested parties can comment on the selection.
- xxxix. Other factors considered by the authority for selection of appropriate market economy third country are not relevant.
- xl. The Authority should have directed the related importer to file a response in order to establish that the transactions are at arm length's price.
- xli. Exports from Thailand to all the countries must be considered for determining the normal value as it would be more reflective price.
- xlii. The Authority appears to be concerned about the likelihood of imports of CPVC compound from the subject countries, in the future, in case of imposition of duties against CPVC Resin only. However, such a situation is commonplace in anti-dumping investigations and there is always a chance that imposition of duties against one good would lead to increased imports of an upstream or downstream product.
- xliii. This is simply a case where the Petitioner is suffering from high costs of production owing to its licensing agreement, delay in starting production, requirement under the licensing agreement to source PVC from Arkema France, etc.
- xliv. ROCE has been considered at 22% on average capital employed. However, ROCE for a nascent and unestablished industry cannot be at the same level as that for an established and fully functional industry. The Authority must consider a lower ROCE for the purposes of NIP.

- xlv. The Designated Authority was required to examine whether M/S DCW Limited is established or not. The respondent has demonstrated that the M/S DCW Limited is an established industry.
- xlvi. The selection of 18-month period of investigation has led to inflated non-injurious price. The period of investigation includes period of setting of industry.
- xlvii. The Authority should consider period post the period of investigation to determine NIP.
- xlviii. The Authority should examine the post period of investigation performance of the industry to examine injury.
- xlix. The domestic industry was affected by problems regarding start-up phase of the company. The downward trend in the profitability, PBIT, ROI and cash flow cannot be attributed to subject imports but due to start-up phase of the domestic industry.
- l. DA has treated production, sales, capacity utilization, inventory and closing stock as confidential whereas the indexed data was provided by the petitioner in the petition.
- li. Hanwha Chemical Corporation requested the Authority to disclose the computation of dumping margin for Korea RP.

XI. Examination by Authority

- 115. The Authority notes that most of the post-disclosure submissions made by interested parties are repetitive in nature and have already been addressed earlier in the relevant paras of this finding. Further the Authority has examined submission made by interested parties herein below to the extent relevant and not addressed elsewhere:
 - i. As regard the contention that CPVC Resin is useless without compounding, and the product which has utility is CPVC Compound meaning thereby that the value addition in compounding is significant leading to change in usability, the Authority notes that CPVC resin has no independent application and it has to be essentially converted into compound to make it usable and thus both types are meant for same end use. It is further noted that the reliance placed on Ammonium nitrate investigation is misplaced since Ammonium Nitrate melt was not even kept within the scope of PUC by the applicants. Moreover, no import of Ammonium Nitrate melt was made during the relevant period. It was recorded in the final finding of the said investigation that all interested parties were in agreement that Ammonium Nitrate melt cannot be imported as it is, without any change in its form. Therefore, the parallel drawn between these two investigations is inappropriate.
 - ii. As regards the submission that product scope includes both CPVC resin and compound and compound is a value added product and hence should be treated as separate product, the Authority notes that to make practical use, CPVC resin is converted into compound and is not used as separate product per se except for making compound for its further use
 - iii. With regard to the contention that taking tariff code of the subject goods as an identifier of the “incremental” nature of “compounding” process is not correct. and that merely falling under the same “tariff heading” does not mean that two products may be treated as having identical characteristics, it is noted that though tariff code in itself may not be the sole criteria to define likeness of products, yet the very fact that two products have the same tariff code at the eight digit level is an indicator that the process involved in conversion of one into another (CPVC resin into CPVC compound) is incremental.

- iv. As regard the contention that resin and compound cater to different markets, it is noted that CPVC resin does not have any independent use except for making CPVC compound and therefore both resin and compound ultimately have same end use.
- v. As regard the contention that the chemical structures being identical is not a criterion for treating two products as “identical”, the Authority notes that chemical structure is also an important criterion for determination of likeness of products.
- vi. As regard the contention that the Authority has failed to consider that the ratio of CPVC Resin and CPVC Compound entering from China PR and Korea RP are distinct and cumulative assessment of the same is not appropriate, the Authority notes that ratio of CPVC resin and CPVC compound exported from China PR and Korea is not relevant for cumulative assessment once both these have been treated as one product in present investigation. The only requirement for cumulative assessment under the Rules is to ascertain whether or not imported PUC is competing with the like article produced by the applicants and that whether PUC imported from subject countries are competing with each other.
- vii. With respect to the argument regarding non-essentiality for the producer to be engaged in manufacturing of CPVC resin, it is noted that CPVC resin making is essentially the core manufacturing activity and compound making is only an incremental activity. Hence the domestic producer is required to be engaged in CPVC resin making in order to be eligible domestic industry.
- viii. Some interested parties have argued that inclusion of downstream product within the scope of PUC is unjustified since there is always a chance that imposition of duties against particular product would lead to increase in imports of upstream or downstream product. In this regard, the Authority notes that in case of non-inclusion of CPVC compound within the fold of PUC in the present case, the chances of circumvention of anti-dumping duty would be very high on account of the fact that (a) compound making from CPVC resin stage is only an incremental activity and (b) the use of CPVC resin is exclusively for making CPVC compound.
- ix. In regard to the contention regarding comparison of cost of captively produced/ consumed MPVC with that of MPVC imported from France , it is noted that the domestic industry is not manufacturing MPVC and is only importing the same from France, which is being used for production of CPVC resin. Thus, the question of different raw material cost on account of imported vis-a-vis captive consumption does not arise. The Authority has determined the cost of production of PUC after verification of data of domestic industry.
- x. As regards the contention that the Authority’s preliminary finding failed to comply with the requirement of making a “ further determination” as under Section 9B(1)(b)(iii) it is provided that the Central Government shall not levy anti-dumping duty under 9A(2) unless a preliminary finding has been made of dumping and consequent injury to domestic industry and a further determination has been made that a duty is necessary to prevent injury being caused during the investigation, the Authority notes that it has issued the preliminary finding in accordance with law to protect the domestic industry from further injury pending investigation.

- xii. As regards the contention that it is highly arbitrary to choose a data set simply because it shows a higher volume of imports, it is noted that after issuance of the Preliminary Finding, the discrepancies between import data from DGCI&S and DG Systems were examined in detail and it was then noted that DG Systems data contained certain reportage which amounted to duplication. It was noted that imports reported through bills of entry filed for warehousing and bills of entry filed for home consumption only ought to have been considered to avoid double counting and consequently import data from DGCI&S only was taken into account and the same has been categorically explained in the disclosure statement. It is reiterated that the Authority has relied upon DGCI&S transaction-wise data only in the final finding.
- xiii. As regards the contention that Authority should recommend the imposition of anti-dumping duties in the present case for a limited period to protect the domestic industry, the Authority notes that the anti-dumping duty is normally recommended for a period of 5 years. In any case, the Rule 23(1A) provides for mid-term review and interested party are free to seek a mid-term review in terms of Rule 23(1A).
- xiv. As regards the contention of interested parties in respect of the appropriate form of duty, the Authority notes that some interested parties have requested for a benchmark-price based duty rather than fixed duty whereas some interested parties have pleaded for ad-valorem form of duty. It is noted that at the time of preliminary finding the Authority had recommended benchmark form of duty. It is further noted that after examining the fresh contentions of the interested parties, the Authority finds it appropriate to continue the benchmark form of duty.
- xv. With regard to various contentions made by the interested parties in respect of selection of appropriate market economy third country, it is noted that the interested parties have contended that Thailand cannot be considered as appropriate market economy third country in view of level of development, relationship with importer in India, difference in customs duties due to FTA. It is reiterated that the Authority is required to consider the level of development of the product and the country for determining appropriate market economy third country based on available evidence on record. The Authority notes that as far as the level of economic development is concerned none of the producers/exporters/importers/users has suggested any appropriate market economy third country. On the other hand, the domestic industry had suggested Thailand, Japan and U.S.A as appropriate market economy third country. Considering the options available viz. Japan, US or Thailand, the Authority notes that China PR and Thailand are more comparable in terms of level of economic development based on various economic parameters. It is further noted that Thailand has been considered as an appropriate market economy third country for China by other prominent trade remedy user WTO member countries. Besides, the level of import of the subject goods from China PR and Thailand are almost same, which goes to suggest the similar level of product development in both these countries. It is further noted that the difference in customs duty has no relevance since export price from Thailand to India at ex-factory level has only been considered for computation of normal value.
- xvi. With regard to the contention of other interested parties that the import price from Thailand is unreliable due to related party transaction, the Authority notes that it has examined the DGCI&S data and found that imports made by importers other than Lubrizol are priced approximately 6% higher than the average import price from Thailand and that there is no marked difference in price levels. It is further noted that had the Authority excluded the volume of import made by Lubrizol, which other

interested parties seem to suggest, then the import price and consequently normal value would have been higher leading to higher dumping margin thereby defeating the very logic advanced by other interested parties.

- xvi. As regards the contention that exports from Thailand to all the countries must be considered for determining the normal value as it would be more reflective price, the Authority has analyzed the World Trade Atlas (WTA) data to ascertain the export price from Thailand to other countries. It is noted that the separate export prices of CPVC resin and CPVC compound data however were not available in the WTA data on account of both these items, CPVC resin and CPVC compound, having same tariff code.
- xvii. With regard to argument of certain non-consideration of landing charges and cess component in landed price, the Authority has examined the same and has taken corrective action by considering them in landed price.
- xviii. With regard to the contention that volume of sales and price for unrelated non-participating exporter margin should not be taken into account for determining dumping margin since majority of sales have been made directly, it is noted that a rational approach has been adopted by the Authority in determining the margin by taking weighted average of individual rate/ margin to the extent of participation and residual rate to the extent of non-participation.
- xix. As regards the contention that the Authority has rejected level of trade adjustment without assigning any reason, it is noted that the Authority has analysed the export prices in USD in both channels on monthly basis and has come to the conclusion that there is absence of any definite pattern or trend in the prices requiring level of trade adjustment.
- xx. As regards the contention that Authority has incorrectly rejected the response filed by Hanwha, it is noted that the prescribed questionnaire requires the producer/ exporter to provide complete details. Hanwha has admitted that its initial questionnaire response was grossly deficient/incomplete and substantial portion of new information was provided in first and second supplementary response. It is noted that significant information was modified in the first and thereafter in the second supplementary response. Even the overall profit of the company as well as profit in respect of production and sale of the product under consideration have been changed by the company at different stages of response. As far as the issue of on the spot verification is concerned, the Authority notes that verification visit are usually not undertaken when the questionnaire response itself is rejected.
- xxi. It was also pointed out to Hanwa that Appendix-7 of the questionnaire response did not match with Appendix-9. They were also asked to provide element-wise details of SGA expenses. However, in response to deficiency letter, Hanwa has changed SGA expenses as well as profit of the company and PUC.
- xxii. Hanwa was also asked to provide details of all the products produced along with relevant production quantity & value, sales quantity & value as well as complete details of sales to outside parties. However, Hanwa provided only selective data/information and that to varied in different responses submitted by him

xxiii. As regards the contention about non-grant of adequate opportunity, it is noted that Hanwha was given sufficient opportunity through issuance of two deficiency letters. It is further noted that elaborate questionnaire has been prescribed by the authority indicating specific requirements and participating foreign producer/ exporter is required to provide the information in the form and manner prescribed in the questionnaire. Respondent producer(s)/ exporter(s) is not expected to modify the questionnaire itself and provide the information in the manner they deem fit. It is however noted that Hanwha has modified the questionnaire itself at several places and provided information selectively.

xxiv. As regards rejection of export price, it is noted that Hanwha did modify information with regard to selling and distribution cost. Further, the manner in which Hanwha has modified its information in first supplementary response and thereafter in second supplementary response itself raises doubts with regard to credibility and reliability of the information.

xxv. Regarding the request made by Hanwha Chemical Corporation, to disclose the dumping margin computations, it is noted that the basis for determination of Normal Value for Korea RP has been elaborated at Para 47 above which clearly illustrates that the methodology adopted for the said computations is based on prices indicated in the invoices regarding export sales of PUC from Japan to Korea RP. Since confidentiality has been claimed on the sales data by the domestic industry and accepted by the Authority, the normal value and consequently dumping margin computations cannot be disclosed.

xxvi. As regards the request of M/s Hanwha Chemical Corporation for change of name from Hanwha Chemical Corporation to M/s Hanwha Solutions Corporation, it is noted that the request was placed in the Public file for interested parties to offer their comments. No comment has been made by any of the interested parties. It is further noted that M/s Hanwha Chemical Corporation has not been able to substantiate that this merely involves a change of name without any change in ownership or equity holding.

xxvii. Some interested parties have stated that certain parties are not exporting CPVC Compound during the POI, and therefore, the Authority must expressly reserve their right to apply for New Shipper Review of these parties. In this regard, it is noted that new shipper review can be filed by only those who have not exported PUC during the POI and are not related to the entities who have been given individual duty rates/ margin. Since PUC comprises of both CPVC resin and compound, the request is untenable. It is further noted that request of this nature hints at the possibility of shift from export of CPVC resin to CPVC compound in case both these are not brought under the ambit of PUC.

xxviii. Some interested parties have stated that the Applicant is suffering from high costs of production owing to requirement under the licensing agreement to source PVC from Arkema France, delay in starting production etc. It is noted that Applicant being a new producer having commenced commercial production in the injury period itself, the performance of the Domestic Industry could have been impacted by the start-up operations. However, in order to offset the adverse effect on account of start-up operations, it was considered appropriate to evaluate the performance of the domestic industry during POI, on notional basis by considering 100% capacity utilization.

- xxix. As regards the contention that the Authority must consider a lower ROCE for the purposes of NIP for a nascent and unestablished industry rather than @ 22% on average capital employed, it is noted that it is the consistent practice of the Authority to consider ROCE at 22% of capital employed.
- xxx. With regard to argument that the selection of 18-month period of investigation has led to inflated non-injurious price, the Authority notes that it has determined NIP in terms of Annexure-III for the entire period of existence of the domestic industry. It is further noted that to offset the impact of start-up cost, the cost of production has been determined by considering capacity utilisation @ 100%.
- xxxi. As regards the contention that the Authority should consider period post the period of investigation to determine NIP, the Authority notes that as per the statute, NIP and injury margin is required to be determined for the period of investigation only.
- xxxii. Some interested parties have contended that the domestic industry was affected by problems regarding start-up phase of the company and ,therefore, the downward trend in the profitability, PBIT, ROI and cash flow cannot be attributed to subject imports but due to start-up phase of the domestic industry. In this regard, it is noted that the injury, if any, caused due to start up problem has been nullified by determining cost of production taking capacity utilisation at 100% level.

XII. Indian industry's interests and other issues.

- 116. As regards the submissions regarding impact on user industry, the Authority holds that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of antidumping measures is not to restrict imports from the subject countries in any way, and, to affect the availability of the products to the consumers.
- 117. The Authority also holds that though in the event of imposition of anti-dumping duties the price level of product in India may be affected but fair competition in the Indian market will not be reduced by such anti-dumping measures. On the contrary, the anti-dumping measures may mitigate the unfair advantage gained by dumping practices and would help maintain availability of wider choice to the consumers of subject goods.

XIII. Conclusion

- 118. After examining the submissions made and issues raised, and considering the facts available on record, the Authority concludes that:
 - (a) The product under consideration has been exported to India from the subject countries below normal value.
 - (b) Such dumped imports of the subject goods from the subject countries have caused material retardation to the establishment of the domestic industry.

XIV. Recommendation:

119. The Authority notes that the investigation was initiated and it was notified to all interested parties. Adequate opportunity was given to the exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link. Having initiated and conducted an investigation into dumping, injury and the causal link thereof in terms of the Rules and having positive dumping margin as well as injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive anti-dumping duty is necessary to offset dumping and injury.

120. Having regard to the lesser duty rule, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the Authority recommends imposition of definitive anti-dumping duties on the imports of the subject goods, originating in or exported from the subject countries, for a period of five years, from the date of notification to be issued in this regard by the Central Government, as the difference between the landed value of the subject goods and the amount indicated in Col 7 of the duty table appended below, provided the landed value is less than the value indicated in Col 7. The landed value of imports for this purpose shall be the assessable value as determined by the customs under Customs Tariff Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

Duty Table

| S.No. | HS Code | Description of goods | Country of origin | Country of Export | Producer | Specification | Amount in USD/MT |
|-------|----------|--|-------------------|--------------------------------|---|---------------|------------------|
| 1 | 2 | 3 | 4 | | 5 | 6 | 7 |
| 1 | 39042110 | Chlorinated Polyvinyl Chloride Resin (CPVC) - whether or not further processed into compound | China PR | Any country including China PR | Shandong Gaoxin Chemical Co Ltd | CPVC Resin | 2,087 |
| | 39042190 | | China PR | Any country including China PR | | CPVC Compound | 2,717 |
| 2 | 39042210 | | China PR | Any country including China PR | Shandong Pujie rubber and plastic Co. ltd | CPVC Resin | 2,053 |
| | 39042290 | | China PR | Any country including China PR | | CPVC Compound | 2,853 |
| 3 | 39041090 | | China PR | Any country including China PR | Shandong Xiangsheng New Materials Technology Co., Ltd., | CPVC Resin | 2,045 |
| | 39049000 | | China PR | Any country including China PR | | CPVC Compound | 2,853 |
| | 39049010 | | | | | | |

| | | | | | |
|---|--|--------------------------------|---|---------------|-------|
| 4 | China PR | Any country including China PR | Weifang Sundow Chemical Co. Ltd | CPVC Resin | 2,025 |
| | | | | CPVC Compound | 2,853 |
| 5 | China PR | Any country including China PR | Shandong Xuye Materials Co. Ltd | CPVC Resin | 2,057 |
| | | | | CPVC Compound | 2,657 |
| 6 | China PR | Any country including China PR | Any Producer other than mentioned above | CPVC Resin | 2,161 |
| | | | | CPVC Compound | 2,853 |
| 7 | Any country other than China PR and Korea RP | China PR | Any | CPVC Resin | 2,161 |
| | | | | CPVC Compound | 2,853 |
| 8 | Korea RP | Any country including Korea PR | Any Producer | CPVC Resin | 2,024 |
| | | | | CPVC Compound | 2,853 |
| 9 | Any country other than China PR and Korea RP | Korea RP | Any Producer | CPVC Resin | 2,024 |
| | | | | CPVC Compound | 2,853 |

XV. Further Procedure

121. An appeal against this notification shall lie before the Customs, Excise, and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975.

(Bhupinder S. Bhalla)
Additional Secretary & Designated Authority